

The defendant, TP, has pleaded guilty to five counts of indecent assault, three counts of indecent act with a young person, three counts of penetrative sexual abuse of a young person, and I am also dealing with a summary charge of assault with indecent intent. The period of offending was between January 2023 and February 2024. The complainant, whom I will simply refer to as "E", was aged 14 to 15 years during the time of the offending. The defendant was aged 32 to 33 years. The defendant is the stepfather of E.

The defendant had been in a relationship with the complainant's mother for approximately eight years. To that relationship, triplets were born [redacted]. Two of those children have severe and complicated health issues. I will return to the relevance of that in due course. The complainant's mother also has one other child to a previous relationship. At the time of the offending, the defendant, the complainant's mother and all five children were living together in the family home.

Over the 12-month period, the defendant sexually abused E in the following ways. On a date in late January 2023, the defendant entered the complainant's bed. He got under the covers with her. He kissed E on the forehead and on the cheeks. He then kissed her on the lips and inserted his tongue into her mouth for about 20 seconds. As he was kissing the complainant on the lips, he squeezed her buttocks with his hand over her clothing. During this incident, the defendant's penis was erect. This behaviour constitutes the first count of indecent assault.

A few months later, the defendant was again in the complainant's bedroom. The complainant entered the room. She was being playful. The defendant told the complainant she needed to be spanked. E asked what he meant. The defendant directed the complainant to turn around and bend over. He pulled her pants down, leaving her underwear in place. He pulled aside her underwear and looked at her anus and vagina. E then went to bed. This behaviour constitutes one of the charges of indecent act with a young person, charged as count 6 on the complaint.

Some weeks later, the complainant woke, feeling unwell, at around 2:00am in the morning. She asked the defendant to prepare a hot water bottle for her. At this point, the defendant was laying in bed with his son. He told E to lay down on the bed next to him. E complained of a sore tummy and sore legs. The defendant massaged her legs, rubbing the outside and inside of her upper thigh. His thumb rubbed against E's vagina. This behaviour constitutes the offence of assault with indecent intent. He then moved his hand and rubbed the complainant's vagina over her underwear. He asked E if she was okay, and then proceeded to place his hands under her underwear and continued to rub her vagina, skin on skin. He used two fingers to move her labia apart and moved his fingers up and down. He inserted the tip of his finger into her vagina and told E she felt wet. E asked him to stop, and he did. This behaviour constitutes one of the counts of penetrative sexual abuse of a young person.

In April or May 2023, the defendant went into the complainant's bedroom to say good night. The complainant asked for a back massage. This was not uncommon. The complainant was wearing a pyjama top, crop top, shorts and underwear. The defendant provided E with a back massage. He then asked E whether he could massage her feet. He lifted the bedding and rubbed her feet before proceeding to rub his hands up her leg, rubbing her thigh just below her underwear. The defendant then proceeded to place his hand underneath her underwear and rubbed her buttocks and perineum. This behaviour constitutes the second count of indecent

assault charged. E then rolled over onto her back and the defendant put his hand under her pyjama top and crop top, and caressed one of her breasts. This behaviour constitutes the third count of indecent assault charged.

On 24 February 2024, in the evening, the defendant was in the kitchen washing up. E came into the kitchen and asked for ice cream. The defendant responded by taking her into one of the bedrooms and shutting the door. He knelt in front of her and asked if he could kiss her vagina. He pulled down her underwear. E was too scared to say or do anything, except for telling the defendant that her biological father used to do the same to her. This information did not cause the defendant to desist. Rather, he went on to kiss and lick the complainant's vagina. He then turned her around and kissed her on the buttocks. This behaviour constitutes the fourth count of indecent assault charged. The defendant then said to the complainant, "I might as well see your breasts as well." He then kissed both of her nipples. This behaviour constitutes the fifth count of indecent assault.

The defendant then directed the complainant to remove her pants and underwear and told her to get on her knees. He removed his penis from his pants and inserted it into E's mouth. E performed oral sex on him for about 10 to 15 seconds before the defendant withdrew his penis and ejaculated into his hand. This constitutes one of the crimes of penetrative sexual abuse of a young person. E, again, said that her biological father used to make her do that. The defendant responded by rubbing the ejaculate onto E's naked buttocks. He then kissed her on the mouth, penetrating her mouth with his tongue. He told her to pull her pants up and said they needed to leave the bedroom before anyone realised what was occurring.

Later that same evening, the defendant asked E if she enjoyed it, and asked whether she would kiss his penis again. He took his penis from his pants and E kissed the end of his penis. This constitutes a further crime of indecent act with a young person. He then asked E to show him her vagina and asked her whether she had previously masturbated. He directed E to rub her vagina so he could watch. He then touched her on the vagina and inserted his finger into her vagina. This constitutes a further crime of penetrative sexual abuse of a young person. The defendant asked E whether she preferred it when he touched the inside of her vagina or her clitoris. E did not respond. The defendant left the bedroom but told E she should continue exploring her vagina.

The following morning, the defendant went and got into bed with E. He hugged her, placing the front of his body against her back in a spooning position. At this point, the defendant's penis was erect, and he rested his penis against her thighs. He maintained this position until his penis went flaccid. This behaviour constitutes the crime of indecent act with a young person.

During the period of the offending, the defendant encouraged E to keep the behaviour secret. He told her not to write about what was occurring in her diary in case her mother read it. The sexual abuse came to an end when E disclosed what had been occurring to a pastor at her school. On 12 March 2024, E was in the reception area at the school when she had an interaction with the school pastor. The pastor was concerned as to E's demeanour and asked if she was okay. E responded by saying to him that only her and her father knew and that her mother did not know. The pastor told her he would not push the matter with her, but if she wanted to talk about it, he was available.

The following morning, on 13 March, the defendant drove E to her school bus as normal. As E exited the car, she handed the defendant a letter. In that letter she indicated that she intended to tell the pastor at her school about what had been occurring. She said, "I need to be free". She also said, "I am really sorry. I don't want the family to be split but I just feel the push by God to tell him and I have never really before felt God talk to me apart from now". Again, E went on to say that she was very sorry. She also said, "You are not stopping me. I will do what it takes to tell him. Sorry. From E".

After receiving the letter, the defendant rang the school and asked to speak to the complainant. Following the phone call, the complainant was very upset and distressed. The pastor spoke to her and the disclosures of sexual abuse were made.

The same day, the defendant attended the Devonport Police Station and made full admissions to the sexual abuse. During the record of interview, the defendant said that he had seen E naked in the shower and had been thinking about her; he also said when he thought about her, he felt aroused as her body is developed. He said that when they cuddled, he lost control and had the "urge to take things further". At a different point in the record of interview, the defendant said that he did not have the strength to stop himself from doing it, and that he should have stopped when the complainant told him her biological father also used to abuse her. He told police that he had been "severely addicted to porn" since he was young and would masturbate daily until his wife asked him not to do so. He went on to say that he had an amazing sex life with his wife. He said on occasion he had thoughts about the complainant whilst masturbating, and he would stop and read his Bible and "try and be a better father".

I have not received a victim impact statement from the complainant. In respect to offending of this nature, however, a presumption of harm operates. Courts understand that crimes of this nature cause pervasive harm to victims and often the true extent of the harm does not manifest for many years. Victims commonly spend their whole lives endeavouring to recover from the harm caused by abuse of this nature. Here, part of the harm caused by the defendant is highlighted, in my assessment, by the complainant's response when she ultimately made the decision to report the abuse. She expressed sorrow and angst to the defendant for making the disclosure; indicative of the pervasive mental harm the sexual abuse of children causes. The guilt the complainant experienced when she made the decision to disclose, should never have been her burden to carry.

The defendant abused his stepdaughter and took advantage of her innocence and trust, and his position of authority as her stepfather. At times, he sought to secure her silence by telling her not to write about what was occurring in her diary. At other times, his behaviour was suggestive of an endeavour to normalise and legitimise his conduct by implying he was encouraging her self-growth, for example, when he told her she should continue to explore her vagina. His conduct was a fundamental abandonment of his obligations as a stepfather to care for and protect the complainant from harm. Whilst the sexual abuse only lasted for a 12-month period, it occurred at a time when the complainant was at an important stage of her emotional and sexual development and was sexually and emotionally vulnerable.

It is noteworthy that the defendant did not desist from the abuse. It only ended upon the complainant being brave enough to disclose. In my assessment, the defendant's moral culpability is very high.

The defendant is 34 years of age. He has no prior convictions, but that is not unusual in a matter of this nature, and provides little, if any, mitigation. As noted, the defendant and his wife had triplets [redacted]. Two of the triplets have significant and complicated health issues. [Redacted]

The children require complete assistance for [redacted] Until his remand, the defendant was the primary carer for his two children, which included having to manage [redacted] the children regularly experience, given their conditions. Because of the physical strength of the defendant, it fell to him to provide the physical care, including moving the children [redacted].

In 2020, the defendant's wife sustained a herniated disc from lifting the children, necessitating spinal surgery. However, because the family could not arrange sufficient in-home support to accommodate her absence, the surgery was postponed. She has managed the pain associated with the herniated disc, using spinal injections, over the counter pain medication and strengthening exercises.

The combination of the care needs of his children, and the difficulties experienced by his wife meant the period of 2022 to 2024 was a particularly stressful one for the defendant. I am told he was struggling mentally and emotionally, and it was during this period that the sexual abuse occurred. Contemporaneously, the defendant was also engaging in other sexualised behaviours, including engaging in extra-marital relations and pursuing, what he describes, as a severe addiction to pornography, arising, most likely, from his own sexual abuse during his childhood. He now recognises that he had developed a number of unhelpful addictive habits which were defining his life, and which required addressing.

The defendant feels a great sense of guilt that his behaviour has left his wife in a position whereby she is going to have to endeavour to cope with the care needs of the children. The children have NDIS support, but it is unlikely to fill the gap left by the defendant's absence. His children will be negatively impacted. I am told the two boys have been very upset since the defendant has been remanded in custody, crying and missing their father. Their physical conditions have regressed due to the lack of available intensive physiotherapy, such tasks having previously been undertaken by the defendant.

In my assessment, the impact to his wife and children is relevant to sentencing, although it is only one of a multitude of factors that must be considered. His conduct has harmed not only the complainant but the whole family, and this underlines for the defendant the abhorrence of his conduct and makes it less likely that there will be a repeat of this type of behaviour upon his ultimate release. I take into account that the defendant has engaged in counselling since the commission of this crimes, as indicated by the reports that have been provided. Whilst brief, they indicate the defendant now has a better understanding of the full impact of his abusive and immoral behaviour.

I accept the submission that the plea of guilty is a significant matter in reduction of penalty. It saved E from the ordeal of giving evidence and avoided the potential need for family members to do the same. I accept it was an early plea of guilty, following some negotiation as to the factual basis. I also note the defendant was co-operative with police when interviewed and made significant admissions. Whilst the defendant did not desist from his behaviour, once it was disclosed, he acknowledged his wrongdoing and has demonstrated remorse and contrition. Upon entering his plea of guilty, the defendant sought to have his bail revoked and enter into custody, even knowing the impact his remand would have upon the broader family.

Sexual abuse of children is a matter of significant community concern. Factors of general deterrence, denunciation, condemnation and vindication are paramount. In this case, there is the additional aggravating factor, as mentioned in s 11A of the *Sentencing Act* that E was, at all times, under the defendant's care and supervision. He was her stepfather, and this crime involved an appalling breach of trust. That breach of trust extends to his wife and other children.

The level of gravity associated with this offending goes without saying. There is a very strong need for the Court to respond in a way that demonstrates its commitment to the protection of children. The defendant's conduct deprived E of a safe and stable environment during her important adolescence years. I have no doubt the conduct will cause significant long-term harm to her, even if that is not yet recognised or acknowledged. E was entitled to be safe in her family home. She was entitled to be protected and respected by those whose obligation it was to raise her.

In fixing sentence, I have moderated the length of it to some extent in consideration of the defendant's personal circumstances, particularly those pertaining to his family. I have also reduced his sentence by a significant degree because of the plea of guilty. But for the plea of guilty, I would have sentenced the defendant to imprisonment for a period of eight years.

Applying the appropriate reduction, I make the following orders. You are convicted of all crimes and offences to which you have pleaded guilty, TP. I impose a global sentence of six years' imprisonment from 16 December 2024. I order that you not be eligible for parole until you have served one half of that period of imprisonment.

In accordance with s 11(3) of the *Sentencing Act*, I identify the sentences which I would have imposed for each crime had I been sentencing them separately. These are all reflective of the periods of imprisonment I would have imposed:

Count 1 – 10 months;  
Count 2 – 9 months;  
Count 3 – 9 months;  
Count 4 – 12 months;  
Count 5 – 9 months;  
Count 6 – 6 months;  
Count 7 – 9 months;  
Count 8 – 8 months;  
Count 9 – 6 months;  
Count 10 – 18 months;  
Count 11 – 2 years; and  
Count 12 – 18 months.

I am required to make an order under the *Community Protection (Offender Reporting) Act* unless I am satisfied you do not pose the risk of similar offending into the future. I am not so satisfied. I order that your name be placed on the register, pursuant to that Act, and that you comply with the reporting obligations under that Act for a period of ten years following your release from custody.