

Mr Cate, you have pleaded guilty to sexual crimes committed against two complainants. Both complainants are females who were under the age of 17 years when the crimes were committed. You were aged between 22 and 23 at that time. All of the crimes were committed between 1 July 2022 and 19 January 2023.

The crimes committed against the first complainant consist of two counts of an indecent act with a young person and one count of penetrative sexual abuse of a young person. The complainant was 16 years of age at the relevant time. You connected with her by way of social media, in response to a general request made by her over that platform seeking to borrow money. After initially suggesting to her that you could obtain money for her, you ultimately offered to pay her to engage in sexual conduct with you. After some conversation, she eventually agreed to do so. On two separate occasions, she masturbated you. On the second occasion, in addition to the masturbation, you, with her consent, sexually touched her and then penetrated her vagina with your fingers. The acts were consensual and you paid her on each occasion with money, and on the second occasion also gave her some vapes. You were aware that she was underage at the time of the sexual conduct.

In relation to the second complainant, you have pleaded guilty to three counts of penetrative sexual abuse of a young person. She was aged between 15 and 16 years at the relevant time. She was in a relationship with the first complainant and was introduced to you by her. She consensually entered into an arrangement with you to receive money from you in return for sexual contact. However, on some occasions, you provided her with other items in particular marijuana, alcohol and vapes instead of the promised money. Each crime involved penile vaginal intercourse and occurred on separate occasions. It also included some sexual touching. You did not use a condom at any time despite the complainant asking that you do so on at least one of the occasions. However, on each occasion you completed intercourse before ejaculation.

The first complainant declined to make a victim impact statement, but I have received an impact statement from the second complainant. She asserts significant impact as a result of your conduct, including the development of significant mental illness. She has required a considerable amount of treatment for this illness. I have now received some material from the prosecution which supports the claim that she has suffered from mental health illness since this offending and that material does not establish a causal link between what you did and illness she has suffered. However, it is consistent with the experience of courts that sexual abuse of young people who are under the age of consent can result in severe and long-lasting harm. Accordingly, while I do not attribute all of the harm described by the complainant to your conduct without evidence in this regard, I do accept that one of the primary sentencing aims in cases such as this is the protection of young people from the harmful consequences of abuse by adults. The law recognises that even where the conduct is consensual, young persons of the age of these complainants do not have sufficient maturity to recognise and assess the potential harm that might be caused by engaging in premature sexual activity. Of course, in this case the complainant was clearly vulnerable because of long established mental illness. You were not necessarily to know that but that is the point. The effect of such offending stays where it falls in respect of all persons and people can be vulnerable not just because of their age but for other reasons as well. Further your use of payment to persuade the complainants to engage in sexual activity with you,

in my view, increases the seriousness of your conduct. So also does your refusal to wear a condom during the acts of sexual intercourse.

You are now 26 years of age. You have no prior convictions of significance. You have had a difficult life. You and your siblings suffered abuse at the hands of your father. Before this offending you underwent the tragic loss of your sister from suicide. She had accused your father of sexual abuse against her, but was disbelieved by the family including you. You have suffered significant guilt over this. According to a psychologist who has provided a report, the circumstances and your reaction to it resulted in you developing a major depressive disorder as well as associated problems with alcohol and drug use. You were suffering from this disorder at the time that you committed the crimes with which I am dealing. The psychologist expresses the view that this did impact on your capacity for decision-making and contributed to your commission of these offences. You were also unemployed and homeless at the relevant time and your relationship had recently come to an end. You continue to experience symptoms of depression and the psychologist has indicated that he would expect that your mental health will be adversely affected by incarceration. He has assessed you as a low to moderate risk of further sexual offending.

I am told that you are remorseful for this conduct. You pleaded guilty at a relatively early time and I accept that this is consistent with your claim of remorse. The plea also has utilitarian benefit because the complainants will not have to give evidence at a trial. You have been assaulted ostensibly by people who became aware of your offending through its publication in the media.

The primary sentencing considerations in relation to crimes such as this are general deterrence, denunciation and vindication of the victims. However, in your favour I take into account that the age disparity is not as great as it sometimes is in other examples of such crimes. I also take into account your mental state and its contribution to your decision to commit these crimes, the impact of your mental health on your potential experience of prison and your pleas of guilty. In my view, the appropriate sentence is a sentence of imprisonment, but I intend to partially suspend the sentence in order to reflect the mitigating factors. I think it is appropriate that there is supervision while in the community and this will be a condition of suspension.

1 Accordingly, the orders I make are as follows:

- a You are convicted of the crimes to which you have pleaded guilty;
- b You are sentenced to a global term of 2 years imprisonment, which will be backdated to 15 September 2025. The balance of the sentence after you have served a period of eight months in prison will be suspended for a period of 12 months on the following conditions:
 - i that you are not to commit another offence punishable by imprisonment during that period.
 - ii that you will be subject to the supervision of a probation officer. You must comply with this condition for a period of 18 months. That period will commence from when you lawfully cease to be imprisoned under this sentence. The Court notes that the conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition. These include that you must report to a probation officer within

three clear days of the day that you lawfully cease to be imprisoned under the sentence. In addition to the core conditions the order shall also include the following special conditions:

(a) you must, during the operational period of the order,

- i attend educational and other programs as directed by the Court or a probation officer;*
- ii submit to the supervision of a probation officer as required by the probation officer;*
- iii undergo assessment and treatment for drug dependency as directed by a probation officer;*
- iv submit to testing for drug use as directed by a probation officer;*
- v undergo assessment and treatment for alcohol dependency as directed by a probation officer;*
- vi submit to testing for alcohol use as directed by a probation officer;*
- vii submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;*

You will not be eligible for parole in respect of the operational part of the sentence, that is the period of eight months.

- c I am required to make an order under the *Community Protection (Offender Reporting) Act 2005*, unless I am satisfied that you do not pose a risk of committing a reportable offence in the future. Having regard to the circumstances of this case, I am not satisfied of that matter and, accordingly, must make an order. 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 five years commencing on the day of your actual release from imprisonment.