

STATE OF TASMANIA v RAF
COMMENTS ON PASSING SENTENCE

18 DECEMBER 2025
JAGO J

RAF, you have pleaded guilty to one count of persistent sexual abuse of a young person. The offending took place between the period 1 July 2021 and 31 August 2021. At the relevant time, you were aged 27 and the complainant had just turned 16.

You had known the complainant for several years. He was a good friend of your nephew, and they went to school together. In May 2021, your long-term relationship ended. You struggled with the end of that relationship and were apparently sad and lonely. The complainant would regularly come to your home, to spend time with your nephew, and you developed an affection for him. You began communicating with the complainant over various social media applications and through SMS messages. When these communications commenced the complainant was still 15. The communications became affectionate and then sexualised.

On 24 June 2021, the night before the complainant's 16th birthday, you sent a message to the complainant expressing love for him. You also sent a communication which read: "three more hours and you a young man buddy xx". The connotation of the message was clearly sexual in my view.

In early July 2021, shortly after the complainant turned 16, you and he had consensual anal sexual intercourse for the first time. This was at your house. Thereafter, you and the complainant would engage in sexual intercourse two to three times per week, until all contact between the two of you ceased at the end of August 2021. The State assert that consensual sexual intercourse occurred on approximately 20 occasions. The State relied upon three specified occasions in proving the crime, but those occasions must be considered in the context of an ongoing sexual relationship. The specified occasions are the first occasion, which I have just mentioned; a second occasion which also occurred at your residence in the shed and which involved foreplay, consisting of mutual masturbation, mutual oral sex and then consensual anal sexual intercourse; and a third occasion which also occurred at your residence, and involved the complainant staying over, initially sleeping in a room with your nephew, before ending up in your bed where consensual anal sexual intercourse again occurred.

At the end of August 2021, the complainant terminated the relationship. It was not a situation where you realised your wrongdoing and brought it to an end.

In September 2021, the complainant's grandmother contacted police. They subsequently spoke to the complainant who provided a statement. You were later arrested and interviewed. You admitted to police that you had engaged in sexual intercourse with the complainant. You made admissions to the three specified occasions that are relied upon by the State. You also told police that you knew the complainant was 16 when you first had sexual intercourse. You said that you did not know the age of consent in Tasmania. You told police that you felt as though you had a connection with the complainant, and he was someone who made you happy.

I am told that by the time of the police investigation, the complainant had been diagnosed with ADHD and Autism. It is not asserted that these conditions were known to you but, the fact of the complainant suffering from those conditions, made him vulnerable and less able to fully evaluate the potential consequences of agreeing to engage in a sexual relationship with you. It underlines the need for laws of this nature. The complainant's consent to sexual activity with you was informed by his vulnerabilities and his still young age. The fact he willingly

participated in the relationship is of no great moment in sentencing. Consent and mutual affection are not mitigating circumstances. It simply means aggravating circumstances are absent.

You are 31 years of age. You have no prior convictions for sexual offending, but that is not uncommon in a matter of this nature. I note in January 2022, you were convicted of family violence offending which occurred in May 2021. It is likely then that you would have been on bail for that offending when this crime occurred. I am told you suffer from some serious mental health conditions, including severe depression and anxiety. Your depression has led to suicidal ideation in the past. These mental health difficulties developed around the age of 16 when you lost a number of family members to whom you were close, in a short period of time. Your mental health has been an ongoing difficulty for you. You identify as bi-sexual. I am told that after your long-term relationship broke down you were sad and lonely, and you were struggling with suicidal ideation. You were craving companionship. You felt a connection with the complainant and genuinely cared for him. It was in those circumstances that the relationship developed. Whilst I accept your mental health has been debilitating, there is nothing before me to suggest it in any way impaired your understanding of the wrongfulness of your conduct. Your depression may have led to you feeling a heightened sense of sadness and loneliness, but you had a moral and legal obligation as a 27-year-old adult, not to seek comfort and emotional support by engaging in a sexual relationship with a child.

I take into account the length of the relationship – it was only two months – but during that time there was frequent sexual contact. Whilst the focus of the sentence must be the three specified occasions, the overall context of the relationship is relevant. There is no suggestion that at any point, your behaviour was predatory, controlling or manipulative, but, of course, as I have noted, there was a difference in age of some 11 years, and a corresponding difference in both sexual and emotional maturity.

The law which makes such conduct criminal, exists for the protection of children and young people. The law recognises that young people require protection, not only from adults who might take advantage of them, but also from their own poor and immature choices, often made at a time when they lack the emotional and intellectual maturity and judgment to fully appreciate the consequences of their choices. It is now well understood that the consequences for a young person of engaging in premature sexual relations, even where consensual, can be detrimental and damaging, and the true extent of the impact may not emerge until much later.

Here, the complainant has been significantly affected by this crime. He experienced a decline in his mental health, his self-confidence has been badly affected, and he started using alcohol as a coping mechanism. He found himself unable to trust people. He was embarrassed amongst his peers when it became known that he had been involved in this relationship. It is noteworthy that the impact statement I received from the complainant, indicates his relief when advised that you were pleading guilty to the crime. That underlines the value of the plea of guilty in a crime of this nature. Relieving the complainant from the ordeal of having to give evidence about a difficult and potentially embarrassing subject matter, is a factor that counts in your favour in the sentencing exercise.

I note there has been considerable delay in this matter, but not because of your conduct. The admissions you made to police and your description of the specific occasions, formed the basis upon which this matter has proceeded. I am told that initially the State wished to rely upon different specified occasions in prosecuting this matter. Once the State indicated they would

accept the occasions that you identified in your record of interview, the matter immediately proceeded to a plea of guilty.

Crimes of this nature are always serious because of the need to protect young people. The sentence must reflect the need to protect the broader community by deterring others in a similar position who may be tempted to act in the same way. The sentence must also reflect the need to punish and denounce such acts. The seriousness of your offending must, in my view, be marked with a period of imprisonment, and after careful reflection I have concluded that a wholly suspended sentence cannot meet the paramount need for general deterrence and protection of children. There are, however, aspects which justify the suspension of part of the term of imprisonment.

RAF, you are convicted of the crime. You are sentenced to imprisonment for a period of two years. The last nine months of the period of imprisonment will be suspended on condition that for a period of two years, you commit no offence punishable by imprisonment. I order that you not be eligible for parole until you have served one half of the 15-month operative period. I make an order directing that the Registrar, under the *Community Protection (Offender Reporting) Act 2005*, cause your name to be placed on the register and that you comply with the reporting obligations under that Act for a period of five years from today.