

Mr Jones, you have pleaded guilty to two counts of indecent assault and one count of grooming with intent to expose a young person to indecent material. The crime involved your conduct with two young girls that you initially met, and then befriended, via the social media application, Snapchat.

The first girl you met was "K". She was 14 years of age at the relevant time. You were 19. In April 2022, you and K added each other on Snapchat. You did not know each other at the time. You communicated for a number of weeks, predominately about innocent topics. During early discussions, K told you that she was 14. Later, you began to ask K about sexual matters, including whether she had had sexual intercourse and whether she would have sex with you. K told you no and stopped replying to your messages for several days. Later K again accessed the message thread and saw that you had apologised. She re-commenced communicating with you.

At one point, whilst you and K were speaking on a call, you asked her whether she wanted to see your penis. She immediately told you no and ended the call. In May 2022, you sent K several photographs, and one video, in which you are holding your erect penis in your hand. When K opened the messages, she told you that they were inappropriate and that she did not want to see them. You sent further pictures of the same nature. K stopped responding to you. During the communications, you also asked K to send nude photographs of herself. She never did so.

In May 2022, you asked K to meet with you. You assured her that nothing would happen and that you would just "hang out for a bit". The two of you met at a local school in the company of some other friends. At one point, you asked K to go for a walk with you. Whilst alone, you kissed her on the mouth, and whilst seated, you placed your hand onto her upper thigh. One of the friends took a video of the kiss. These behaviours constitute the crime of indecent assault.

Over the weeks that followed, K was conflicted. She blocked you and then re-added you from her social media accounts. There continued to be intermittent communications. Amongst the communications you sent to K were expressions of love and promises that you would treat her "amazingly". You said that you would be there for her if she ever needed you. One of the messages said "I'll treat you the very very best ... I love you so much [K] and I want what we've got to last forever. You are precious and I mean that". Other messages indicated a degree of jealousy. For example, you would ask her why she was talking to other people and accuse her of lying about other social interactions.

At one point, whilst you and K were messaging on Snapchat, K's mother saw a message from you to her. She intervened and asked you whether you knew that K was only 14 years of age. You said that you did. K's mother told you never to contact K again. K's mother confiscated K's phone and saw that you continued to message her. K's mother reported the matter to police in July 2022 and provided some screen shots of the message exchanges, and also the video of you and K kissing.

You were interviewed on 9 August 2023. You admitted that you had sent K "dick pics". You said you regretted doing it. You said that you and K had talked about having sex, but you were not sure whether you should do it because of her age. You said that you knew that she was 14.

You also claimed that K had told you that she did not care about the age gap and that her Mum and Dad were okay with it. I assess this as being most unlikely.

You also admitted the acts which constitute the indecent assault, although you said that you had no intention for any further sexual contact to occur that day. You did tell police that you wanted to have a sexual relationship with K at some point, and that was what K wanted also. You told police that you knew the age of consent was 17.

The second count of indecent assault relates to a young female, "M". She was 12 at the relevant time. You were 20. Again, you met M through various social media platforms, and the two of you began to communicate. You arranged to meet M in person and the two of you drove around in your car for a time. Thereafter, the two of you began to communicate more regularly.

On 20 July 2023, M arranged for you to collect her from football training. You said you would but expressed concern about being seen with her. This is indicative of the fact that you appreciated she was young, and realised it was not appropriate for you to be pursuing a relationship with her. You nevertheless collected her from football training and the two of you went to your house. M stayed overnight with you for two nights. She told her mother she was staying with a friend. On the first night, M slept in your bed but there was no physical contact. On the second night, you kissed M on the mouth and neck and gave her a "hickey". M was left with a bruise on her neck. Thereafter, you and M exchanged some messages about the bruising and M told you that one of her friends had noticed it.

In the weeks that followed, you told M that you had feelings for her. M made it clear to you that she just wanted to be friends. During the time you were communicating with M, a number of your associates warned you that M was as young as 13. Some of the messages that you sent M were unseemly given her age. You sent messages telling her that you loved her, that you could not imagine being with anyone else and that you had not felt "this way for anyone in a while". You suggested you wanted a serious ongoing relationship with her. Several of the messages M sent you in reply, clearly indicated that she considered she was too young to commit to an ongoing relationship and that she did not wish to engage in that sort of conversation. At one point, you apologised to M for being too pushy.

When police spoke to you on 9 August in respect to the K allegations, they seized your phone. Whilst they had it, they discovered the messages between you and M. Police later attended M's school and spoke with her. In August 2023, M's mother looked through her phone and saw the messages between her and you. M's mother messaged you on Snapchat and told you that you were not to have anything to do with her 12-year-old daughter, and if you continued to do so, she would contact police. You replied saying you understood.

On 4 September 2023, you were interviewed by police in respect to your conduct with M. You initially told police that M had suggested to you that she was older than 12 and had said she was 16 turning 17. You said after a few weeks you found out she was much younger. You questioned her about it, and she denied it. You admitted to police that M had stayed two nights at your residence. You agreed that you had "made out ... kissing and cuddling". You suggested that you had only found out a few weeks earlier her true age. You said that she wore lots of make up and did not look as young as she was. You agreed that people had told you that she was younger than 16 and that some people had told you that she was only 13.

The State accepts that you may not initially have been aware that M was as young as 12, but by the time she spent the two nights at your house, you were well aware that she was younger than 15 years of age. Shortly after that, you became aware that M was as young as 13 because of the information that friends had provided to you. Even once you knew her young age, you continued to speak with her and proposed continuing a relationship with her.

The factor of overwhelming importance in sentencing for crimes of this nature is the protection of children. Offenders must not only be punished and denounced, but sentences must serve as a signal to others that harsh consequences will flow for this type of conduct. Child sexual offences carry the presumption of harm. Your conduct had great potential to corrupt and damage K and M. Whilst I have not received victim impact statements from either of them, it is almost inevitable, in my view, that some form of deleterious consequence flowed from your conduct. The experience of courts is that the impact of sexual crimes upon children is frequently the cause of long-term serious harm. In this case, whilst I accept the physical nature of the offending was not towards the higher end of the scale of seriousness, I have no doubt your crimes have given rise to psychological harm.

I also note that in respect to the on-line component of your offending, there is a strong need for general deterrence and protection of the community generally. Offences of this nature are very easy to commit, but difficult to detect. They are almost always committed in private beyond the notice of those who are responsible for the safety and protection of young people. Young people frequently participate in on-line communications and use social media platforms as a primary means of socialisation. The Court has an obligation, to the extent it is able to achieve it, to protect young people from their own vulnerability, immaturity, and at times, poor judgment by the imposition of sentences which will deter those who wish to take advantage of them.

The sentencing factors which I have just outlined, strongly suggest that the only appropriate sentence is one of imprisonment. In your case, however, there are a number of additional matters which require careful consideration. Your personal circumstances were described to me by your counsel and in a report prepared by Dr Michael Jordan. You are now 23 years of age. You have a mild intellectual disability and ADHD. The combination of your mild intellectual disability and the effects of your ADHD, led to a number of behavioural difficulties during your schooling years.

Dr Jordan notes that it is broadly accepted that sexual naivety can be a common factor for males with mild intellectual functioning, particularly if combined with some form of further developmental disorder, such as ADHD. He notes it often results in a psycho-sexual understanding of a delayed nature. He also notes that individuals with intellectual disability, who are in their early adult years, often gravitate towards younger persons as they feel a stronger emotional concurrence with chronologically younger individuals than peers of their own age.

Dr Jordan considers it is likely that your intellectual disability combined with your ADHD, impacted upon your ability to realise the potential moral culpability associated with interacting with the two young girls, particularly during the early periods of the relationships. He opines that even when you appreciated their true ages, you are likely to have experienced some ongoing difficulty in appreciating the full extent of the wrongfulness of your conduct.

Dr Jordan also opines that he does not consider you to be sexually deviant or suffering from a paedophilic disorder. Dr Jordan is of the view that a period of imprisonment would be very challenging for you, and given your limitations, you would be vulnerable within a prison environment. It is likely to have significant adverse effects upon your mental health.

I accept your conduct was influenced by your intellectual disability and ADHD. You were 19 and 20 at the relevant time, which is not an insignificant age gap, but equally is not as pronounced as is often seen by the courts in matters of this nature. Given, however, your limitations I accept you function with a degree of emotional and social immaturity, resulting in you gravitating towards younger persons with whom you can better communicate and bond. I am told, and Dr Jordan confirms, that the process of being charged and coming before the courts has been difficult and enlightening for you. You now have a better understanding of the wrongfulness of your conduct, consistent with your early entry of pleas of guilty.

This sentencing exercise has some complexities. Clearly, your conduct was very serious. It was not spontaneous. You communicated with both K and M for extended periods of time. You made inappropriate suggestions to both of them about an ongoing relationship. You indecently assaulted each of them. You sent K indecent material and asked her to send like material to you. K and M, and other young people like them, must be protected as far as possible from conduct of this type. But your personal circumstances must also be reflected in the sentencing process. I have determined that a sentence of imprisonment is necessary to mark the gravity of the offending, but in light of what I have outlined, I am satisfied it is appropriate to wholly suspend that imprisonment. I am also going to place you on a Community Correction order, to provide you with some support, but also to give effect to a need for a punitive component in the sentence, by having you perform some community service hours.

I make the following orders. You are convicted on each count. I impose one sentence. You are sentenced to imprisonment for a period of 15 months. That sentence will be wholly suspended on condition that for a period of two years, you commit no offence punishable by imprisonment. Additionally, I impose a Community Correction order. That will be in place for 12 months from today. The Community Correction order will carry with it all the core conditions, which includes that you must report to Community Corrections, Devonport, by no later than close of business tomorrow. The following conditions are also imposed:

- You must not commit an offence punishable by imprisonment;
- You must report to a probation officer as required by the probation officer;
- You must comply with the reasonable and lawful directions of a probation officer or a supervisor;
- You must not leave or remain outside of Tasmania without the permission of a probation officer; and
- You must give notice to a probation officer of any change of address or employment before or within 2 working days after the change.

I impose the following special conditions:

- You must, during the operational period of the order, submit to the supervision of a probation officer as required by the probation officer;
- You must undergo assessment and treatment for alcohol and/or drug dependency if directed to do so by a probation officer; and

- You must, for the duration of the operational period of the order, submit to medical, psychological or psychiatric assessment or treatment or counselling if directed to do so by a probation officer;

I impose a further special condition. That is, you must perform and complete 84 hours of community service within the period of 12 months from today. I further impose conditions that you must satisfactorily perform that community service as directed by a probation officer or supervisor.

I am of the view that it is appropriate to place you on the *Community Protection (Offender Reporting) Act* register, although given your limitations, I am satisfied that the period to which you should be subject to such an order, should be less than it would ordinarily be for this kind of offending. I make an order directing that the Registrar causes your name to be placed on the register, and that you comply with the reporting obligations under the Act for a period of two years from today.