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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO 202303302/A4

[2023] EWCA Crim 1536



Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday, 2 November 2023

Before:

LORD JUSTICE WILLIAM DAVIS

MR JUSTICE HOLGATE

MR JUSTICE SAINI

REFERENCE BY THE ATTORNEY GENERAL UNDER
S.36 OF THE CRIMINAL JUSTICE ACT 1988

REX
V
A.T.D.

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MISS F ROBERTSON appeared on behalf of the Attorney General
MR N LOBBENBERG and MR M KIRK appeared on behalf of the Offender

J U D G M E N T

1. LORD JUSTICE WILLIAM DAVIS: The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall, during that person's lifetime, be included in any publication if it is likely to lead members of the public to identify that person as the victim of the offence. Due to the familial connection between the offender and the victim, this case will be reported with the offender anonymised as ATD. We shall refer to the victim as C.
2. Between 5 June and 14 June 2023 the offender stood trial in the Crown Court at Luton before Mr Recorder Mayall and a jury on an indictment containing seven counts. The judge withdrew three of those counts from the jury at the close of the prosecution case, after a submission of no case to answer. At the conclusion of the trial the offender was convicted of the remaining counts, namely one count of rape of a child under 13, contrary to section 5 of the Sexual Offences Act 2003, and three counts of causing or inciting a child to engage in sexual activity, contrary to section 8 of the Sexual Offences Act 2003.
3. On 25 August 2023 the offender was sentenced by the trial judge to 24 months' imprisonment suspended for two years in respect of the offence of rape of a child under 13, and 18 months' imprisonment suspended for two years in relation to each offence of causing or inciting a child to engage in sexual activity. All of those sentences were ordered to run concurrently. Requirements were attached to the orders suspending the sentences of imprisonment. These were as follows: an accredited programme requirement to address sexual offending with up to 40 program sessions required; a rehabilitation activity requirement of up to 30 days; an unpaid work requirement of 200 hours. A Sexual Harm Prevention Order was made, the duration of which was five years.

4. His Majesty's Solicitor General now applies for leave to refer those sentences pursuant to section 36 of the Criminal Justice Act 1988 as being unduly lenient.
5. The offender is now aged 23. He was born on 9 October 2000. On 10 February 2016, C's eldest brother was admitted to Great Ormond Street Hospital. He had suffered from severe disabilities from birth which required several hospital admissions. In February 2016 his condition was critical. He required emergency surgery. Thereafter he was on life support.
6. C's mother asked her stepmother (who was the offender's mother) for help whilst C's brother was in hospital and during his recovery. The stepmother agreed. She went to stay at the home of C's mother so that C's mother could spend as much time as possible with her son. The offender and his younger sister went with their mother to stay at C's home.
7. On an occasion between February and April 2016, whilst staying at C's home, the offender committed the offence of rape of C. C was then aged seven. The offender pulled her into the bathroom at her home. He removed his clothing, he removed C's lower clothing, he touched her vagina and put her hand on his penis. He then put her mouth onto his penis. He moved her head around by holding onto her ponytail. The incident came to an end when someone knocked on the bathroom door.
8. Once C's brother was discharged from hospital, the offender, together with his mother, moved into a flat nearby. This was so that the offender's mother could continue to support her stepdaughter. On a few occasions during the summer of 2016, C visited that flat. By this time she was aged eight. On one of those occasions the offender performed oral sex on C by licking her vagina. On another occasion he touched C's vagina and he

caused her to masturbate him. Those occasions were represented by the counts of causing or inciting a child to engage in sexual activity.

9. Once he had reached his 16th birthday there were no further incidents of sexual abuse of C by the offender. At around this time the offender began a relationship with a girl of his own age. This relationship developed over time. They subsequently had a child together.
10. In 2021, C told some of her friends that she had been raped and sexually assaulted by the offender. She then told her brother about the sexual abuse. This was not the brother who had been critically ill in 2016; tragically he had died in 2018. She told her brother because she was worried that her friends might tell others about what she had said, even though she had told them in confidence. The brother disclosed his sister's complaint to their parents. As a result the police were involved. On 26 March 2021 the offender was interviewed under caution on the basis of C's initial disclosure. He denied any allegations of sexual abuse. On 28 March 2021, C provided an ABE interview to the police, which set out her allegations in more detail. The offender was interviewed again in the light of that ABE interview. He maintained his denials of any sexual activity with C.
11. The offender's first appearance at the Magistrates' Court was on 23 August 2022. He was sent for trial. After the offender was convicted in June 2023, sentence was adjourned for the preparation of a pre-sentence report. Sentence initially was listed on 28 July 2023. Both prosecution and defence counsel prepared sentencing notes. The judge adjourned the sentencing hearing because those notes did not refer to Ahmed and others [2023] EWCA Crim 281. Judgment in that case had been handed down on 17 March 2023. Sentence was imposed after further sentencing notes dealing with Ahmed had been served.
12. The judge had two victim personal statements, one from C and one from her mother.

Both were dated 28 June 2023. C, by now in her mid-teens, stated she had lost her happiness the day the abuse began. She said she constantly suffered with "water infections" because of the abuse. She could not sleep by herself and would constantly cry herself to sleep. She said that she suffered with trust issues, separation anxiety and social anxiety and from panic attacks. She described every day as being a struggle for her to get out of bed. The offender had replaced her happiness with "depression, self-harm and low self-esteem". She stated that her friendships were ruined because of the offender. She had fallen out with her friends which increased her self-harming and worsened her mental health. At school she was bullied and asked questions about the offending which lowered her self-esteem further and increased her panic attacks and anxiety. She had had to move schools, causing her to fall behind. She had been in counselling for two years because of the abuse. She struggled to maintain relationships with boys and constantly had reminders of the offender and his actions. The offender had made forming a relationship with a boy another challenge for her.

13. The victim's mother described the offender as betraying them, having previously viewed him more like a son than a brother, and stated the pain the offender had caused was "indescribable". She said that C was no longer a bubbly, happy girl. She now is a child who would not leave her mother's side. She stated that the offender's actions had nearly destroyed her family.

14. There was a pre-sentence report available to the judge. The offender maintained his denial of the offences when he was interviewed for that report. The author of the report concluded that the offender did not have any persisting sexual interest in young children. Rather, the offending occurred during the offender's adolescence when the male libido is liable to be heightened. Moreover, the offender was at an age when an individual's

understanding of the impact of their behaviour on others can be limited. The report considered whether those factors and his age served to reduce the culpability of the offender in relation to his abuse of C. The author of the report concluded that it did not because the offender had threatened his victim at the time in a way that demonstrated he was fully culpable for his behaviour. The report also set out the offender's position as at the date of sentence, namely that he was in regular employment and living with his sister in London.

15. In his sentencing remarks, the judge began by setting out the facts as we have rehearsed them above. He then considered the process he was required to adopt in the sentencing exercise by reference to the judgment in Ahmed. He cited the terms of paragraph 6.1 to 6.3 of the Sentencing Council Children Guideline. He then quoted Ahmed at paragraphs 21 and 22:

"In our judgment, the applicable principles are clear. Those who are under the age of 18 when they offend have long been treated by Parliament, and by the courts, differently from those who are adults. That is because of a recognition that, in general, children are less culpable, and less morally responsible, for their acts than adults. They require a different approach to sentencing and are not to be treated as if they were just cut-down versions of adult offenders ...

There is, in our view, no reason why the distinction in levels of culpability should be lost merely because there has been an elapse of time which means that the offender is an adult when sentenced for offences committed as a child.

Section 59(1) of the Sentencing Code requires every court, when sentencing or dealing with an offender who was under the age of 18 at the time of the offending, to follow the Children guideline except in the rare case when the court considers it would be contrary to the interests of justice to do so. Paragraphs 6.1 to 6.3 of that guideline are relevant in such circumstances, and we are unable to see any justification in logic or principle for the submission that those paragraphs should only be followed where

the offender has only recently attained adulthood. They remain relevant, and therefore to be followed, however many years have elapsed between the offending and the sentencing. That is because the passage of time does not alter the fact of the offender's young age at the time of the offending. It does not increase the culpability which he bore at that time."

16. The judge then considered the conclusions set out at paragraph 32 of Ahmed:

"i) Whatever may be the offender's age at the time of conviction and sentence, the Children guideline is relevant and must be followed unless the court is satisfied that it would be contrary to the interests of justice to do so.

...

iii) The court must take as its starting point the sentence which it considers was likely to have been imposed if the child offender had been sentenced shortly after the offence.

iv) If in all the circumstances of the case the child offender could not in law have been sentenced (at the time of his offending) to any form of custody, then no custodial sentence may be imposed.

...

vi) The starting point taken in accordance with (iii) above will not necessarily be the end point. Subsequent events may enable the court to be sure that the culpability of the child offender was higher, or lower, than would likely have been apparent at the time of the offending. They may show that an offence was not, as it might have seemed at the time, an isolated lapse by a child, but rather a part of a continuing course of conduct. The passage of time may enable the court to be sure that the harm caused by the offending was greater than would likely have been apparent at that time. Because the court is sentencing an adult, it must have regard to the purposes of sentencing set out in section 57 of the Sentencing Code. In each case, the issue for the court to resolve will be whether there is good reason to impose on the adult a sentence more severe than he would have been likely to have received if he had been sentenced soon after the offence as a child."

17. Having engaged in a review of the principles in Ahmed, the judge considered whether the

offender in 2017 or thereabouts would have been sent to the Crown Court for trial or whether the Youth Court would have retained jurisdiction. In the event the judge did not reach any conclusion about that because he determined that wherever the offender fell to be sentenced the Sentencing Council Guideline for Sentencing Children and Young Persons for Sexual Offences would have been applied. That guideline had two categories of offence as set out at stage 1. The judge concluded that the offending in this case fell into the second and more serious category, namely the offending involved penetrative activity with an element of exploitation.

18. Before going on to determine the consequences of this categorisation of the offending, the judge dealt with two discrete factual issues. First, he considered whether C had suffered severe psychological harm due to the offending. He referred to Forbes [2016] EWCA Crim 1388 at paragraph 26, where the court said that, in relation to serious sexual offending, serious harm is inherent whichever guideline applies, whether offence-specific or the children guideline. The psychological harm must be particularly severe for it to amount to a distinct higher culpability or aggravating factor. The judge acknowledged the content of the victim personal statements. He made the point that he had seen and heard C give evidence. He noted that she had had other major traumatic events in her life, not least the grave illness and subsequent tragic death of her eldest brother. The judge took account of the evidence that C had been a happy child until she was about 12 - that is a point some years after her last contact with the offender. Taking all of those matters into account, the judge determined that he was not satisfied that C had suffered severe psychological harm in the sense required by Forbes.

19. Second, the judge addressed the issue of threats. He asked the question, had the offender made threats to C not to tell anyone about what had happened between them? He

observed that this was not part of the jury's verdict. Thus, it was a matter for him to decide on the evidence he had heard. Having considered that evidence he concluded that he was not satisfied that any threats had been made.

20. The judge then returned to the Sentencing Council Guidelines. In relation to the Sexual Offence Guideline in relation to children, the offending of this offender required consideration of a custodial sentence or a youth rehabilitation order with intensive supervision. The judge noted that there were aggravating factors, namely a significant disparity of age and the vulnerability of C and mitigating factors, namely no previous convictions and good character.
21. Taking into account the age and lack of maturity of the offender, he concluded that the likely sentence had the offender been sentenced at some point relatively close to the time of the offending would have been a youth rehabilitation order with intensive surveillance and supervision. Self-evidently such a sentence was not available to him given the offender was now in his twenties. Therefore, the judge considered the factors in the Imposition Guideline. He decided that, since he was considering the appropriate sentence for someone who had offended at the age of 15, it would not be right to conclude that the only appropriate punishment was immediate custody. There was significant personal mitigation in that the offender was someone who had led a law-abiding life since he was 15 and who had a good prospect of rehabilitation. In those circumstances, the judge reached the conclusion that the suspended sentences he imposed best matched the sentence that would have been imposed on the offender when he was 16 or 17.
22. On behalf of His Majesty's Solicitor General, it is argued that the judge fell into error in more than one respect. First, it is said that he ought not have made the findings of fact that he did in relation to the threats said to have been made by the offender and the severe

psychological harm suffered by C. It is submitted that the judge did not explain why he rejected C's evidence in relation to the threats. The jury had convicted the offender of serious sexual offences on the basis of her evidence. She had not disclosed the offending until some four years after the event. The judge did not explain why there had been that delay, a delay which the judge should have attributed to the threats having been made.

23. In respect of psychological harm, the judge had victim personal statements from C and her mother which described very significant problems from which C continued to suffer. They went beyond what might sensibly be considered inherent in serious sexual offending. They should have been identified as constituting the basis for a finding of severe psychological harm.

24. Secondly, it is argued by the Solicitor General that the judge failed to apply relevant sentencing guidelines. In writing it was submitted on behalf of the Solicitor that the correct approach would have been as follows:

1. Consider each count individually and identify an appropriate starting point with reference to culpability and harm as set out in the appropriate adult sentencing guidelines.
2. Consider the aggravating and mitigating factors which justified an elevation or reduction to the starting point.
3. In passing concurrent sentences identify count 3 as the lead offence and apply an appropriate uplift to the sentence to reflect the other counts being sentenced concurrently.
4. Make a reduction of around one-half to two-thirds of the appropriate adult sentence to reflect the offender's age at the time of the offending, namely 15 years old.
5. Consider the principles of youth sentencing and whether subsequent events may

enable the court to be sure that the culpability of the child offender was higher or lower than would have been likely to have been apparent at the time of offending, such as the fact that this was a course of conduct. In this case there had in fact been no offending in the seven years since the offences had occurred.

25. In oral argument counsel for the Solicitor General explained that the position was not as stark as was set out in writing. Counsel's argument before us was that the offences were so serious that only immediate custody was appropriate. Because of that, and because the length of that sentence inevitably would have been a period of detention significantly greater than two years, that should have led to the judge to look at the adult guideline. That nuanced position, if we may respectfully say so, was not made clear in the written Reference. What it is said the judge did was to simply approach the sentencing exercise as if he were sentencing a 15-year-old and failed to apply the adult guideline at all. It was a guideline applicable to the offender since he was 22 at the date of sentence.
26. The third argument, to which we have already referred, is that the judge failed to apply a sufficient uplift to the sentence imposed in relation to rape to reflect the other offending.
27. On behalf of the offender, Mr Lobbenberg KC (who did not appear below) and Mr Matthew Kirk (who represented the offender at trial and sentence) submitted that the judge correctly applied the principles set out in Ahmed. It was argued that the offender was to be sentenced for offences committed when he was 15 and that the principles set out in ZA [2023] EWCA Crim 576 applied. As to the factual findings made by the judge, they were findings made by a judge who had heard the evidence in the trial. For us to interfere it would be necessary to demonstrate that the findings simply were not open to him on the evidence he had heard. It was argued that the judge was entitled to make the findings he did. Whilst C's evidence clearly had been accepted by the jury in relation to

the counts they were left to consider, her evidence in relation to three counts had been found lacking in credibility by the judge. It was argued that it is in relation to two of those counts that the allegations of threats first emerged. As to the issue of severe psychological harm, the judge had correctly applied the principles in Forbes. For the reasons he explained he was entitled to conclude that severe psychological harm had not resulted from the offending.

28. The correct formulation of what amounts to an unduly lenient sentence is still that provided by the then Lord Chief Justice in Attorney General Reference No 4 of 1989

[1990] 1 WLR 41:

"A sentence is unduly lenient, we would hold, where it falls outside the range of sentences which the judge, applying his mind to all the relevant factors, could reasonably consider appropriate."

29. In this case, we must ask whether it was reasonably appropriate to sentence the offender by reference to the children guideline and in consequence impose a non-custodial sentence. As an adjunct to that issue, we have to consider whether the factual findings of the judge were erroneous.

30. As we have indicated, the judge did not read any final conclusion as to where the case would have been tried had the offending come to light when the offender was still 15 or had passed his 16th birthday. We agree that he did not need to do so since he was concerned by that point only with the sentence actually to be imposed in the light of the verdicts of the jury and of all the material available in relation to the offences, the victim and the offender. In so far as it is of any relevance, we are satisfied that this is a case in which the Youth Court would have retained jurisdiction for trial by reference to the principles in South Tyneside Youth Court [2015] EWHC 155 Admin. The marginal relevance of this is the court which first would have considered the appropriate sentence

when the offender was 15 or 16 would have been a specialist court concerned with the sentencing of young people.

31. Turning to the arguments, we shall deal first with the factual findings since, were they made erroneously, the errors potentially would affect our view of the sentence imposed.
32. The judge did not explain why he reached the conclusion he did in relation to the alleged threats made by the offender, save to say that his conclusion was based on the evidence he heard in the trial. Part of that evidence was evidence in respect of which he concluded it was appropriate to withdraw the counts from the jury because the jury could not rely on the evidence of C in relation to those particular counts. It may be that that was in his mind when he referred to the evidence he had heard in the trial. It is said that the judge did not explain the delay in reporting which ought to have been attributed to the threats made. We see nothing in that point. Delay in reporting in offending of this kind is common place when there is a familial relationship between victim and offender. There can be any number of reasons for delay. It often will occur even when there is absolutely no suggestion of any threats. There is no evidence in this case that the victim linked her late reporting to the threats.
33. In all the circumstances of this case, we find ourselves wholly unable to conclude that the judge made a fundamental error in his assessment of a fact which was within his province to determine. He was entitled to reach the view he did. He was the judge who had heard the evidence. This finding was of importance. The author of the pre-sentence report concluded that the offender was fully culpable at the time of the offending because he had made threats. That conclusion cannot stand given the judge's finding. Rather the observations of the author of the report about the effect of age on an offender's understanding of the consequences of their actions must be applicable to this offender,

thereby reducing his culpability.

34. In relation to the psychological harm suffered by C, the judge gave detailed reasons for his conclusion that she had not suffered severe psychological harm due to the offending. He applied the test in Forbes. He considered the evidence he had heard in the course of the trial, as well as the content of the victim personal statements. We do not consider that we are in a position to overturn the judge's finding of fact, made it as it was after a careful assessment of relevant factors. We emphasise he was not saying that C had suffered no or no significant psychological impact as a result of the offending. The issue he had to determine was whether the impact was severe in the sense required in Forbes. We further observe that his finding had no impact on his categorisation of the offence within the children guideline. Irrespective of severe psychological harm the offence still was in the higher category.
35. We are satisfied that the approach to the sentencing exercise as advanced in writing by the Solicitor General as being appropriate is quite wrong. To a significant extent that approach as advanced in writing is something from which counsel resiled today. The approach set out in writing is precisely the approach taken by the sentencing judge in RW, one of the cases reviewed in Ahmed. The court in Ahmed explained at paragraph 104 why that approach was wrong: it did not take account of the fact that the offence was being committed by a child. The judge in RW should have sentenced by reference to the children guideline, in accordance with the general principles as set out at paragraphs 21, 22 and 32 of Ahmed, namely as rehearsed by the judge in his case.
36. In our view the sentencing exercise conducted by the judge in relation to this offender followed the principles in Ahmed correctly. There was some discussion in the Crown Court as to the guideline which would have been applicable had the offender been

sentenced much closer in the time to the offending. We know that the offending came to an end at some point prior to October 2016. Had the offender been prosecuted within a reasonable time thereafter the likelihood is he would have been sentenced after the coming into effect of the Sentencing Council Guideline. We are fortified in that conclusion given what actually happened. The police conducted their investigation in the early part of 2021 but the offender was not charged until August 2022. A similar delay in 2016 would have inevitably meant that the sentence would not have been imposed until after 1 June 2017, which is the date on which the guideline came into effect.

37. In any event, in our judgment the judge properly applied the 2017 guideline in relation to sexual offences. He concluded that the offending fell into the second category of the guideline, namely offending where a custodial sentence or youth rehabilitation order with intensive supervision and surveillance may be justified. He identified the aggravating factors in the guideline which applied to the offender, namely disparity in age and particular vulnerability of the victim. He said the mitigating factors were the offender's lack of previous convictions and his good character.
38. It has been argued on behalf of the Solicitor that there were further aggravating factors which the judge ought to have considered: abuse of trust, abuse on multiple occasions over a period of months, steps taken by the offender to prevent the victim from reporting the offending, location of the offending. This was not a case of abuse of trust, as defined at paragraph 17 of Forbes. The offender was, in terms of relationship, C's uncle but not in any position of trust in relation to her. In respect of the number of offences the indictment charged specific offences, thus the offender was convicted of four offences, two of which occurred as part of the same incident. We do not consider that that falls into the category of multiple offending sufficient significantly to aggravate the offending.

39. The judge's finding as to threats removed any potential for the offender having taken steps to the reporting of the offending. The only matter not specifically referred to by the judge was the location of the offending. We do not consider that this factor, of which the judge was well aware given his recitation of the facts in his sentencing remarks, could have made any real difference to the judge's assessment of the case.
40. By reference to the Children Guideline, the judge acknowledged that the offending was such that even for an offender aged 15 custody would have been an option. But, as the judge found, a youth rehabilitation order with intensive supervision and surveillance would have been available. The guideline makes clear that a court can only impose a custodial sentence on a person whose offending occurred when they were aged 15 if it is satisfied that an enhanced youth rehabilitation order could not be justified. In those circumstances a court must give reasons for such a conclusion.
41. It was in that context that the judge determined that, had the offender been sentenced by reference to the Children Guideline, the court would not have concluded that only a custodial sentence would have been appropriate. That assessment was clearly a difficult one. However, we consider that the determination was correct. These were offences committed by a 15-year-old. He was of an age where he lacked maturity, particularly in respect of sexual matters. He would have had limited understanding of the consequences of his actions. Events since 2016 demonstrated that the offender did not have any continuing sexual interest in young children. There was nothing to indicate that the offender's culpability was higher than might have been apparent at the time of the offending or at the time of any sentencing process shortly thereafter. In those circumstances the issue of what the sentence would have been by reference to the Adult Guideline in our view did not arise. This follows from paragraph 6.45 of the main

children guideline:

"Only if the court is satisfied that the offence crosses the custody threshold, and that no other sentence is appropriate, the court may, as a preliminary consideration, consult the equivalent adult guideline in order to decide upon the appropriate length of the sentence."

42. In those circumstances, the judge in our view was entitled to reach the view that had the offender been sentenced close to the time of the offending, this was not a case where only immediate custody would have been appropriate given all the factors involved. Since an enhanced youth rehabilitation order was not an available option to the judge in 2023, he was bound to consider what sentence could be imposed which would replicate the sentencing outcome close to the time of the offending. We conclude that a suspended sentence of imprisonment with rigorous requirements attached to the order achieved that end.
43. We acknowledge that a suspended sentence of imprisonment is a custodial sentence so in strict terms the judge concluded that only a custodial sentence was appropriate. However, the reality is that the judge was seeking to reach a pragmatic solution to the problem created by the offender's age at the time of sentence. He did not conclude that no other sentence was appropriate in the sense indicated in the Children Guideline.
44. In our judgment, the judge approached this difficult sentencing exercise in a clear, indeed exemplary, fashion. It was only through his intervention at the first sentencing hearing that proper consideration was given by the parties to the principles in Ahmed and the application of the Children Guideline. In sentencing, the judge applied the principles in Ahmed correctly. In our judgment he cannot be said to have been wrong to conclude that only a custodial sentence would have been appropriate had the offender been sentenced at

or near his 16th birthday. Thus the sentences imposed by the judge were a sensible solution to the problem created by the age of the offender at the date of sentence.

45. It follows that we do not consider that the sentences imposed were unduly lenient. We refuse to give leave to refer the sentences.

46. Before we leave the case, we emphasise that our conclusion does not mean that the offences committed against C, in particular the rape which took place in the bathroom at her home, were anything other than grave. This was serious sexual abuse of a child aged seven or eight. The sentencing process applicable to someone aged 15 at the time of the offending involves very different considerations to those which would apply to an adult offender. A court is obliged to apply the Children Guideline in those circumstances which reflects the distinct statutory purpose of sentencing a person of that age. At paragraph 1.2 of the guideline, the core principle is expressed as follows:

"While the seriousness of the offence will be the starting point, the approach to sentencing should be individualistic and focused on the child or young person, as opposed to offence focused."

47. At paragraph 1.5 the point is developed in this way:

"It is important to bear in mind any factors that may diminish the culpability of a child or young person. Children and young people are not fully developed and they have not attained full maturity. As such, this can impact on their decision making and risk taking behaviour.

It is important to consider the extent to which the child or young person has been acting impulsively and whether their conduct has been affected by inexperience, emotional volatility or negative influences. They may not fully appreciate the effect their actions can have on other people and may not be capable of fully understanding the distress and pain they cause to the victims of their crimes."

48. An adult who commits serious sexual abuse of young children can be expected to understand the gravity of their conduct, and to have a high level of culpability. The same does not apply to a person aged 15. It is a person of that age with whom this judge was concerned for the purpose of sentencing.

49. **Epiq Europe Ltd** hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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