

Sentencing remarks regarding historic sexual offending, against two children, one count of indecent assault and one assault contrary to Common Law and four counts of gross indecency, contrary to Section 1 of the Protection of Children (Bailiwick of Guernsey) Law 1985.

**Section 45 of The Criminal Justice Sex Offenders and Miscellaneous Provisions (Bailiwick of Guernsey) Law, 2013 also applies to this case so there must be no publication of any matter including (but not limited to) the name, address, workplace or any photograph likely to lead to the identification of the Victims in this matter, in their respective lifetimes. Any publication in any medium whether that is in writing or by broadcast or by means of the internet including social media is an offence.**

**[2025]GRC027**

**Redacted for Publication to protect the identity of the victims.**

**ROYAL COURT  
FULL COURT**

**25 February 2025**

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:  
Stephen Murray Jones OBE, David James Mortimer, Marilyn Jasmine King,  
Paul Martin Burnard, Simon Ernest Bodkin, Ian Michael Brown,  
Kay Parnwell and Sally-Ann David.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**Michael Derek COTTERILL**

**Crown Advocate F M Russell appeared for the Crown**

**Advocate S J Maindonald appeared for the Defendant**

**JUDGE OF THE ROYAL COURT:**

**Background**

Mr Cotterill, you have been found guilty at trial of 8 counts, mostly of historic sexual offending, against two children, one count of indecent assault, one assault and four counts of gross indecency against Ms A and one count of indecent assault and one of gross indecency against Ms B. The offences against Ms A were committed between [1987 and 1990] when she was between 6 and 9 years old and against Ms B in [1991] when she was 11 years old. The penalties for the offences now and at the time that they were committed are for the customary or common law offences of indecent assault and assault, life

imprisonment, and for the gross indecency offence under section 1 of the Protection of Children (Bailiwick of Guernsey) Law 1985, 5 years' imprisonment.

The facts have been set out in some detail by Crown Advocate Russell. The offences were committed by you at your home. The two Complainants lived, at different times, [in a house close to yours]. At the time, you were living in your house with your own children. Ms A made her complaint in 2022 when she was [an adult]. When police interviewed Ms B as a potential witness, she renewed her allegations against you made in 1991 when she was [a child], which had resulted in no police action at that time. Both Ms A and Ms B described being visitors to your home, which was described by Ms B as a "hang out house", and playing with your children and other children there. Counts 1 to 3 concern Ms A who described being around [redacted] years old and lying naked on your bed when you came into the room, wearing only a towel which you removed, and lying next to her touching her breast and around her vagina (Count 1) being asked by you to touch your penis which she did (Count 2) and, when she protested and swore at you, picked up by the hair and taken to the bathroom where you tried to wash her mouth out with soap (Count 3). Count 4 also concerns Ms A when she was [redacted] years old. She described being in your garden with other children. All the children were naked and you told them effectively to mimic sexual poses in pairs and praised and encouraged them for so doing. Count 5 also concerns Ms A who described being in your children's bedroom with another child, again, naked and being told and being encouraged by you to touch each other in intimate places. Count 6 concerns Ms A who describes how, again, under your direction and with your praise and encouragement, she and another child got into one of the children's beds and simulated sexual intercourse.

Counts 7 and 8 concern Ms B, who described being in your bedroom with another child of similar age being told by you to take off their pants and lie on the bed and you touching her vagina (**Count 8**) and of her, at your request, touching your exposed penis (**Count 7**). You told her not to tell anyone or else her parents would find out about her smoking and she would get no more cigarettes from you.

You were interviewed four times, once at your request. You consistently denied any sexual offending, disputed the facts put to you and said that the allegations by Ms B were fabricated and those by Ms A could not have occurred as alleged. You answered a number of questions during the interviews.

We have read the powerful Victim Impact Statements of both Ms A and Ms B. They both described living in fear of seeing you. Ms A described how she feels after the trial. She said that having to give evidence has brought everything back, her life has been and remains destroyed, the therapy that she has had is no longer working and she said: *"there is no way I can actually put what he has done to me into words, there is no way to get that out, the damage is too big, there are just no words to describe the devastating impact it has had on my life."* Ms B described the effect on her childhood, her education, her work and her relationships. Her fear of bumping into you has limited her work and left her isolated. The psychological impact on her is self-evident from her statement.

You are a local man of 82 years of age; 44 – 49 years at the time of offending. You are now retired, and had been working as a gardener including at the time of the offending.

You have numerous previous convictions, many of which are now old, but some of which are directly relevant: 11 convictions for indecent exposure in 1961/1962 when you were 19/20 years old, and in 1971-1973 when you were 29/30 years old for which you received penalties ranging from bind overs to imprisonment; convictions for indecent assaults on two girls aged 6 and 8 in 1974 (when you were 32) for which you received 6 months' imprisonment; for two indecent assaults on a 12 year old girl in 1991 when you were 49 years old, for which you received 5 months' imprisonment [...] and for an indecent assault on a female child of 7 years in 2010, but the date of the offending was August 1988-1989 at which time you were 46/47 years old, for which you received a sentence of 21 months' imprisonment. There is nothing reported since.

You have been on conditional bail throughout the proceedings.

## **Sentencing Considerations**

The offence of indecent assault covers a wide range of indecent acts. The indecent assaults committed by you do not involve penetration. The offence of inciting gross indecency carries a maximum sentence of 5 years.

There are no guidelines for sexual offending in Guernsey so we regularly look at English caselaw and the English Sentencing Guidelines for guidance as to the approach to sentencing. There is a specific English Sentencing Guideline for historic offences which we have found helpful and sensible and to be in accordance with this Court's approach previously. That provides that the penalty must not be greater than at the time of offending but that the sentencing regime which is applicable is that in force at the time of sentencing. The English Sentencing Guideline recommends "measured reference" to the current sentencing guidelines. In considering the English Sentencing Guideline in relation to the modern equivalent of the offences you have committed, we have carefully noted the different penalties applicable and in particular, the lower maximum penalty for the gross indecency offences. We found it helpful to look at the factors of the degree of harm to the victims, the level of culpability and the level of risk and especially, at the aggravating and mitigating factors as identified in the English Sentencing Guideline, as well as in the leading English case of R v Millberry (2003). Ultimately, though, we sentence on Guernsey considerations, focussing on the actual offences committed with their respective maximum sentences.

We will set a starting point for each victim, taking the indecent assault as the lead offence and the other offences as aggravating the starting points and we will impose concurrent sentences for those offences.

We set the initial starting point for the indecent assault offences against both Ms A and Ms B, before aggravating and mitigating factors at 3 years. Were we sentencing the offences individually, the starting point for each of the gross indecency offences would be 2½ years and for the assault 1 year.

There are numerous aggravating factors in your case:

1. the young age of your victims – between 6 and 11 years old;
2. multiple offences against Ms A. The offending against Ms A was committed over an extended period;
3. an element of grooming;
4. a serious breach of trust by you. You were described as a trusted friend to Ms A's family. The children were in your house and you were responsible for their care and protection;
5. there were other children present;
6. the fact that you told both children not to tell anyone what had been going on;
7. the lifelong and serious psychological harm caused to the victims;
8. the large age gap between you and the victims of at least 30 years and up to 40 years, and
9. your numerous previous convictions for exactly the same offending.

We do note that there is no sexual offending after 1991 which means a gap of over 30 years. The fact that you made your victims give evidence is not an aggravating factor but reduces the mitigation available to you.

We set the revised starting point for Ms A, before consideration of mitigation at 7 years and for Ms B at 4 years and, in setting those starting points, we have taken into account totality.

## **Mitigation**

### **Plea**

As you pleaded Not Guilty, you are obviously not entitled to any credit for plea.

## Personal Mitigation

In terms of personal mitigation, the Court has considered carefully the informative Social Enquiry Report, prepared in respect of you and listened to the succinct submissions of your Advocate.

You are maintaining your innocence which is, of course, your right. This deprives you of any mitigation for remorse even at this late stage. It has also limited the offending analysis by the Report Writer.

We note the harsh and traumatic conditions in which you grew up and the losses that you have suffered. After the offending in 1991, you underwent extensive therapy and treatment and the Report Writer assesses that to have been successful as there has been no offending recorded since. That long period since what the Report Writer describes as the “cluster of offending” from 1987-1991 is an important mitigating factor in your favour.

We take into account your age of 82 and your poor health. We note the point made by your Advocate that the complaint made by Ms B could have been dealt with in 1991, but the fact that it was not, is as much down to you as it was open to you to have admitted it then. We do not take into account the point raised in relation to delay, as we consider that to be irrelevant to sentencing.

The risk assessment of you is detailed and quite complex but ultimately, leading the Report Writer to conclude that, taking into account all the factors including the period since you last offended, family composition and your age, the imminence and likelihood of further sexual offending is low, but she made the point that it is not “no risk”. The risk is assessed as to female and male children and to females generally. We note that you will be a registered MAPPA subject.

## Sentence

Sexual Offending against children is extremely serious and must be met with appropriate punishment, deterrence and steps to ensure the protection of the Island’s children. In view of the seriousness of your offending, immediate custody is the only possible outcome. We keep the sentences to the lowest possible. I repeat that, in sentencing you, we have taken into account the totality principle.

Mr Cotterill, what you did to Ms A and Ms B was disgraceful and disgusting. The fact that it happened years ago does not diminish the harm to them. They will carry that for the rest of their lives.

Taking into account all the above and applying what discounts are available, the sentences will be as follows:

- **Count 1** – 5 years and 7 months’ imprisonment
- **Count 2** – 2 years’ imprisonment, concurrent
- **Count 3** – 9 months’ imprisonment, concurrent
- **Count 4** – 2 years’ imprisonment, concurrent
- **Count 5** – 2 years’ imprisonment, concurrent
- **Count 6** – 2 years’ imprisonment, concurrent
- **Count 7** – 2 years’ imprisonment, concurrent
- **Count 8** – 3 years and 3 months’ imprisonment, consecutive

So, in total, the sentence will be one of 8 years and 10 months’ imprisonment with effect from today.

## Extended Sentence Licence

Having considered the content of the Social Enquiry Report, we consider that the usual period of supervision, if any, after sentence, would not be adequate for the purpose of preventing the commission

of further offences and securing your rehabilitation. Consequently, the Court is imposing an extended sentence in relation to each of the offences. This has two elements – the custodial term, which I have already told you will be a period of 8 years and 10 months, followed by an extension period after your release, throughout which you will be subject to an Extended Sentence Licence. The extension period shall be for the period recommended of 5 years, on each offence concurrently.

If, upon release, you fail to comply with the conditions of the Extended Sentence Licence, or are convicted of a further imprisonable offence, the Court sentencing you, or the Parole Review Committee, can revoke the licence, in which case you could be returned to custody for the remainder of the sentence.

The Extended Sentence Standard Conditions are as follows:

1. to be well behaved and not commit any offence and not to do anything which could undermine the purposes of your supervision, which are to protect the public, prevent you from reoffending and help you to resettle successfully into the community;
2. to keep in touch with your supervising officer in accordance with any instructions you may be given;
3. if required, to receive visits from your supervising officer at your home;
4. permanently to reside at an address approved by your supervising officer and to notify that officer in advance of any proposed change of address or any proposed stay (even for one night) away from that approved address;
5. to undertake only such work (including voluntary work) approved by your supervising officer and notify him or her in advance of any proposed change; and
6. not to travel outside Guernsey without the prior permission of your supervising officer (which will be given in exceptional circumstances only).

Additional conditions are added, as recommended in the Social Enquiry Report, which the Court considers are necessary, not oppressive, reasonable and proportionate, and clear and enforceable. The Report Writer identifies the main requirement as the imposition of external boundaries to ensure that you cannot come into contact with children and re-offend. There is no immediate need for treatment but that could change, so a condition that you comply with any requirements is included. Those conditions are as follows:

- not to approach or communicate directly or indirectly with the victims without the prior permission of your supervising officer;
- to comply with any requirements specified by your supervising officer for the purposes of ensuring that you address your sexual offending behaviour problems; and
- not to have any contact directly or indirectly by any means with any child under the age of 16 years without the prior permission of your supervising officer other than such contact that is inadvertent and not reasonably avoidable in the course of lawful daily life.

**Notification**

Having been convicted of a relevant offence under the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 you became subject to the notification requirements under Part II of that Law. We must now set the notification period.

We follow the recommendation of the probation officer that the notification period should be 10 years, which runs from the date of your convictions on 10 January 2025. This period is a precaution against any risk you may pose and can be further extended. You will be given a further copy of the written notice setting out all the requirements of being a notifier, but in summary they are:

- you should by now have provided the Police with your personal details as required by Law and explained to you when you were convicted;
- after your release you must notify the Police of any change of name or home address at least 24 hours in advance of the change occurring, or within 24 hours if you had no prior knowledge of the change occurring;
- after your release you must notify the Police of any address where you reside or stay for 7 days or longer. This means either 7 days at a time or a total of 7 days in any 12-month period;
- you must notify the Police of your details every 12 months on the anniversary of your initial notification, even if there is no change in these details; and
- you must notify the Police at least 7 days in advance of any plans to travel abroad.

I ask you to note that where the conditions overlap with those of the Extended Sentence Licence, it is the conditions in the Extended Sentence Licence which take priority.

In summary, there will be:

- an immediate custodial sentence of **8 years and 10 months** with effect from today;
- an **Extended Sentence Licence** of 5 years; and
- a **Notification period** of 10 years from 10 January 2025.

**Catherine Maureen Fooks**  
**Judge of the Royal Court**

**25 February 2025**