



16(1)(a) of the Telecommunications (Bailiwick of Guernsey) Law, 2001. Each Count related to a different person. The maximum sentence for this offence is 2 years' imprisonment.

4. As explained in the sentencing remarks, the sentences imposed comprised the following. On the First Indictment, in respect of Counts 1 and 2, 7 years and 2 months' youth detention, both running concurrently. For the sexual assault (Count 3), 6 months consecutive. For the sexual touching of the third complainant, recognising the guilty pleas, 2 years' youth detention, also running consecutively to the other sentences, but each running concurrently with the sentence for Count 4. In respect of Counts 7 and 8, relating to the fourth complainant, 21 months' youth detention, also running consecutively to the other sentences, but concurrently with each other. As a result, for these "contact offences", in respect of the First Indictment, the sentences totalled 11 years and five months' youth detention. In respect of the Second Indictment, 3 years' youth detention was imposed for Count 1 (indecent images of children), being consecutive to the combined sentences on the First Indictment, with sentences to run concurrently with that sentence of 3 years for Count 3 (also 3 years) and 18 months for each of Counts 2 and 4. Finally, in relation to the indecent messages, 12 months was imposed for Count 5, again running consecutively to the other sentences, with the sentences in respect of the other Counts running concurrently. The sentences imposed were also 12 months, save for Counts 8 and 9, when the Applicant had been younger, where the Court imposed sentences of 9 months' youth detention. The total sentences for the 10 Counts on the Second Indictment are 4 years' youth detention, which when added to the sentences imposed on the First Indictment aggregate to 15 years and 5 months' youth detention.
5. By a Notice of Appeal dated 3 June 2025, the Applicant seeks leave to appeal on the basis that the total sentence imposed was manifestly excessive. This Notice, settled by Advocate Green, contains 10 discrete grounds, although the final one appears to be a summary of the previous nine. The first three grounds and the fifth ground all relate to complaining that the Royal Court adopted starting points for certain of the offences that were too high. The fourth ground says that it was wrong in principle to impose consecutive sentences in some instances where the offending across both Indictments arose out of the same incidents or facts, where concurrent sentences should have been imposed. The sixth to eighth grounds all assert that insufficient credit for personal mitigation was afforded to the Appellant. The ninth ground is that the sentencing Court failed to apply the totality principle. I will deal with each of these grounds, but not necessarily in the order they are set out in the Notice of Appeal. I will start with what is said about the various starting points set out in the sentencing remarks.
6. In respect of the rapes, the first ground of appeal accepts that some increase from the 8 year starting point suggested by reference to the guideline case of *R v Milberry* [2002] EWCA Crim 2891 was justified but not to the extent of increasing that starting point to 12 years. Because this is just one of a number of grounds of appeal being advanced, all I will note, in particular by reference to what the Court of Appeal set out in *Law Officers v Trenchard* [2024] GCA 025, to which reference was made in the Royal Court, is that the 12-year starting point does not clearly fall outside the range of starting points that could be used. As the sentencing remarks explain, four aggravating factors were considered to be present, including that the victim was aged 13, meaning the age gap between the Applicant and the victim was significant, there had been an element of grooming and "*the sexual intercourse was partially unprotected*". This first ground comments about evidence of a condom being used, which I consider is entirely consistent with the use of "*partially unprotected*". This first ground of appeal, if viewed on its own, would not be sufficient to grant the leave sought.
7. The second ground of appeal deals with the starting point for the sexual touching Counts against the third complainant only. Having indicated that a single such offence would attract a starting point of 4 years, the aggravating features listed (again, that the victim was a child, with a significant age gap, plus grooming, vulnerability and filming of the offending, with sexual

activity being unprotected) led to that starting point being doubled to 8 years for these three Counts involving the same complainant. The sentencing remarks clarify that double-counting needed to be avoided, which forms part of this ground. Whilst the three Counts would be sentenced to run concurrently with each other, this would be consecutive to the other offending on that First Indictment. This arguably engages the ninth ground of appeal, relating to applying the totality principle. If viewed in isolation, the revised starting point for these aggravating features might not, in itself, warrant granting leave, but the whole of the sentencing exercise needs to be looked at, including this particular revised starting point.

8. The third ground of appeal refers to the starting points used in relation to the four Counts of indecent images of children. The focus in this ground is on the doubling from an initial figure of 6 years, relying on what the Court of Appeal had indicated in *Wicks* 2011-12 GLR 482, to 12 years, in respect of Counts 1 and 3 on the Second Indictment, citing the following aggravating factors: there is more than one offence; several devices had been used; they included moving images; they were first generation images; they involved actual local children; and some of the images had been shared. The ground of appeal specifically points out that this revised starting point exceeded the statutory maximum penalty. However, given that guilty pleas had been entered, I do not think that it can be said to be wrong before personal mitigation is allowed to have a revised starting point above the maximum sentence for any of these Counts. I also disagree with what is said in this ground about the number of images because it is clear from the sentencing remarks that there was no aggravating factor relating to the number of images and the absence of an aggravating factor does not in turn make it something that is a mitigating factor. In simple terms, it was neutral and treated as such. However, I have noted that, in respect of Counts 2 and 4, the initial figure being used was 4 years, which was increased to 6 years, rather than doubled. Whilst there might be differences of approach, it does suggest that doubling the initial figure, where the sentences for these offences were also to run consecutively, may have resulted in the overall sentence being manifestly excessive. However, this really depends again on the ninth ground. That said, this revised starting point starts to push open the door to granting the leave sought.
9. The fifth ground of appeal relates to the revised starting point for the six Counts relating to indecent messages. It was expressly acknowledged that revising the starting point to 48 months meant that this was above the statutory maximum sentence of 2 years. The aggravating factors listed in the sentencing remarks for which the original starting point of 18 months reached 48 months did not apply to each Count, but generally included telling the children receiving them to delete the messages, the age gap, the lies told, the threats made and the sharing. However, once again, there is nothing wrong in a revised starting point being higher than the statutory maximum, provided that the sentence resulting is within the statutory maximum. Again, it is making these sentences to run consecutively that raises questions about the ninth ground of appeal.
10. In relation to these four grounds of appeal, each is potentially an argument that the final sentence imposed on the Applicant was manifestly excessive. The way in which each of these grounds contends that the revised starting points mean that the overall sentence was manifestly excessive necessarily has to be considered in the light of the approach to the mitigation available to the Applicant. In and of themselves, the starting points selected by the Royal Court, despite my comment about the third ground, would have been unlikely to have justified granting leave.
11. I skipped over the fourth ground because, albeit in the context of arguing that the overall sentence was manifestly excessive, it suggests that it was wrong in principle to impose consecutive sentences in respect of two of the Counts on the Second Indictment of making indecent images of children which related to particular complainants for whom there were other Counts on the two Indictments. This is an aspect of the allegation made in the ground that there is a sentencing principle that offences arising out of the same incident or facts should lead to

concurrent sentences. This is a further instance of where the totality principle, raised in the ninth ground, seems to me to be relevant. Unless the overall sentence imposed on the Applicant can properly be argued to fall outside the range for the appropriate combined sentences for all these offences and the offender, leave should not be granted by a single judge, which is the capacity in which I am considering this application. As a standalone ground of appeal, with the Crown having acknowledged that the indecent images all related to two of the complainants, but they were dealt with by consecutive sentences, there is a stronger argument that the overall sentence imposed on the Applicant for all of these offences might be manifestly excessive. I have, therefore, borne this in mind when deciding the outcome of this application.

12. Grounds six to eight all relate to the mitigation available to the Applicant. They include reference to his age and his lack of previous convictions, as well as his medical history. The eighth ground refers to his decision to plead guilty saving substantial Court time. Although the Royal Court said full credit was being applied in respect of those Counts to which guilty pleas were entered, the overall sentence is said not to reflect adequately that reality. Once again, these grounds need to be considered in the light of the ninth ground on the totality principle.
13. Looking at the revised starting points, which are helpfully summarised in the sentencing remarks before the Royal Court turned to mitigation, it is apparent that the Court's approach was to group each set of Counts to reach an overall figure. Thus, on the First Indictment, Counts 1 and 2 were taken together, Count 3 separately, followed by Counts 4 to 6 and finally Counts 7 and 8. Each set of offending, involving different complainants, attracted sentences that were to run consecutively. As regards the Second Indictment, the indecent images Counts were grouped together, as were the indecent messages Counts. Again, each set of offences attracted sentences to run consecutively, but within each group, the sentences ran concurrently. It is apparent that the discount for guilty pleas was given in full where it operated. Aggregating the revised starting points led to a total of 40 years (on the basis that the various sentences were to run consecutively). Some of the Counts could not attract any discount for plea because there had been a trial on several of the Counts in the First Indictment, which has to be factored in. The overall sentence imposed needs to be viewed in the light of the mitigation that is referred to in the sentencing remarks.
14. Express mention is made of the fact the Applicant has no previous convictions, being described as an "*important piece of mitigation*". Similarly, reference is made to the autism diagnosis and what Dr Briggs had had to say (touched on in the seventh ground). Because of the Applicant's age, the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990 is mentioned as is the mitigating factor referred to in *Topley* [2023] GCA 027, which led to a further discount of between 25 and 30% in respect of age. What these grounds do is to argue that insufficient credit was given for the personal mitigation available to the Applicant. It appears this applies whether or not the earlier grounds relating to identifying revised starting points that were two high succeeds. Overall, it is the totality of the sentences imposed that matters.
15. None of the grounds advanced on behalf of the Applicant appear to address the extended sentence licence of 5 years imposed on him. To the extent that this forms part of the appeal, on a sentence of more than 15 years' youth detention, that extended sentence licence probably has little bearing assuming that there would be some release on parole before the end of the sentence to be served. Once again, in the absence of anything specific, it seems to form part of the overall complaint that the sentences imposed were manifestly excessive.
16. I have, therefore, asked myself whether the Applicant has an argument that the overall sentence was manifestly excessive. In doing so, I have considered the totality of the sentence imposed. This was a set of serious sexual offending over a period of time. It was, in my view, inevitable that this offending would attract a substantial custodial sentence. However the overall sentence of 15 years and 5 months' youth detention was reached, I take the view that the Applicant has

an argument that this was a very long period for a person who had just turned 20. Whilst the individual sentences for each set of offending in themselves might not fall outside the applicable range for those particular Counts, in combination I consider that the overall sentence imposed might be capable of being viewed as manifestly excessive and conclude that leave should be granted.

17. I also considered whether leave should be refused on any of the grounds of appeal the Applicant wishes to advance. I have commented about some of those grounds and it will be a matter for Advocate Green as to how strenuously he argues some of those that appear to me to have less merit than others. In the circumstances, I believe it would be counter-productive to refuse leave on any of the grounds, thereby requiring the Applicant to renew leave for some, but not all, of the grounds in the Notice of Appeal. The better outcome will be to grant leave for the appeal that the overall sentence was manifestly excessive and see how the arguments develop.
18. Further, having granted leave to appeal, the Applicant will also be granted legal aid in respect of this appeal against sentence.