

Section 115 of the Children Law (Bailiwick of Guernsey) 2008 applies to this case so that there must be no publication of any matter including but not limited to the name, address, details of work/school or any photograph likely to lead to the identification of either of the children who are mentioned in the course of these proceedings [ie those named in the indecent messages offences]. Any publication is an offence. Publication means to distribute, publicise or disseminate information by any medium, including by newspaper, by radio or television broadcast, also by social media or by the internet, and related expressions are to be construed accordingly.

[2025]GRC051

**ROYAL COURT
FULL COURT**

27 June 2025

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Stephen Murray Jones OBE, Steven John Morris, Stuart Michael Crisp,
Marilyn Jasmine King, Tina Jane Le Poidevin, Paul Martin Burnard
and Kay Alison Parnwell.**

THE LAW OFFICERS OF THE CROWN

- v -

JESSICA EDEN GARNHAM-BURTON

**Advocate J D McVeigh appeared for the Crown
Advocate S J Maindonald appeared for the Defendant**

JUDGE OF THE ROYAL COURT:

Introduction

The Judge began by addressing the Defendant and setting out the sentence for the Defendant. Those remarks have been incorporated into the body of the text below.

Background

Ms Garnham-Burton, you are here today to be sentenced on an Indictment containing 10 Counts.

Two Counts of sending indecent messages contrary to section 16(1)(a) of the Telecommunications (Bailiwick of Guernsey) Law, 2001, the maximum penalty for which is 2 years' imprisonment.

- Count 1 – in May 2024 you sent a series of indecent messages to an account belonging to girl A (a girl then of 8 years);
- Count 2 – in May 2024 you sent an indecent message to an account belonging to girl B (a girl then of 7 years);
- six Counts of making indecent images of children, contrary to section 105(1)(a) of the Sexual Offences (Bailiwick of Guernsey) Law, 2020;
- two further counts of distributing indecent images of children, contrary to section 105(1)(b) of that 2020 Law;

the maximum penalty on each of the offences involving indecent images of children is one of 10 years' imprisonment.

These images are now grouped into three categories by reference to the Child Abuse Images Database ("CAID"). The most serious is Category A, which includes penetrative sexual activity, sadism or sexual activity between children and animals. Category B (with which we are not concerned) covers non-penetrative sexual activity and Category C covers all other indecent images not in the first two categories:

- Count 3 is the making of 5 Category A images on an Apple iPhone X on 3 May 2024;
- Count 4 is making 9 Category C images on an Apple iPhone X from 1 April to 23 May 2024;
- Count 5 is the making of 2 Category A images on a Samsung phone from 3 to 21 April 2024;
- Count 6 is the making of 4 Category A images on an Apple iPhone Pro 12 from 30 May to 23 June 2024;
- Count 7 is the making of 28 Category C images on an Apple iPhone Pro 12 on the same dates as in Count 6 (above);
- Count 8 is the making of 3 Category C Apple iPad from 2 to 4 April 2024;
- Count 9 is the distribution of 2 Category C images on 22 May 2024; and
- Count 10 is the distribution of 1 Category A image on 22 May 2024.

For the purposes of this Law, 'making' includes downloading and 'distributing' is self-explanatory. There are therefore 11 Category A images and 40 Category C images and we have been careful not to double-count the images in the distribution Counts.

The facts have been set out in detail by the Prosecuting advocate. In or around May 2024, you were in communication with two young girls: girl A who was aged 8 and girl B who was aged 7, who are step-sisters. You used two different Snapchat accounts. You had 17 Snapchat accounts all together. You used two different Snapchat accounts to commit these offences, one of which was your own ("the Jessica Account") and one of which is in the name of a friend of yours at that time ("the X Account"). On 22 May, girl B's mother checked the iPads belonging to girl A and girl B and found material of a sexual nature, including a video sent by you to girl A of an adult female masturbating and naked photographs of an adult female's lower half. You were arrested and ultimately all four of the above devices were seized and through analysis of the girls' iPads and those devices, evidence of the messages and indecent images of children offences were found.

In terms of the Count 1 messages offence, there was evidence of messaging between you and girl A on both the Jessica and X accounts. She had sent you a photograph of herself which is in the bundle and which we accept shows a girl of 8 years and you admitted that you knew her age. On 22 May, she messaged you on the X account saying that she wished to break-up with you. You then sent her two Category C images and this is Count 9 (distribution) and a message: "Can I finger you?" to which girl A responded with a media file which we accept was a photo of her vagina. We note that this image has not been shared or distributed. You then sent a further message about "fingering" her, and that message and the earlier similar one are the subject of Count 1 and you then sent her a Category A video which is Count 10. On 22 May, there was also an exchange of messages between you and girl A on the Jessica account, in which you sent a message as if you were a different person from X, encouraging girl A to make X jealous by sending a photo of Y (presumably her). Girl A then sent the indecent images received from you on the X account to the Jessica account, prompting you to communicate with the X account, telling X to stop sending explicit images to girl A. Within the messages on 22 May, there is an attempt by you to meet girl A and girl A gives her real age of 8 years (she had said that she was 14 years in the earlier messages on the Jessica account).

Count 2 concerns messages with girl B. Girl B had sent a photograph to you which is in the bundle and we accept that it was obvious that she was a child of less than the 13 years which she claimed. There is no evidence that your neurodiversity impacts on your understanding of age. Again, you were using both the Jessica and X accounts and pretending that you and X were different people. The key message was sent by you from the X account: "Do you want to have sex?". Girl B sent a screen-shot of this message to the Jessica account and you pretended to be shocked at the question.

The indecent images in Counts 3 to 8 were discovered across the four devices, mostly associated with the Snapchat gallery. One image was a Category C image of girl A (we emphasise that that image was not shared). You had taken steps to hide the images on one of the Apple devices using Apple's 'hidden gallery' feature. As stated, you distributed to girl A, one Category A and two Category C images which are included in the total of the images.

You were interviewed and you largely exercised your right to silence, but you did make some admissions. We have read the Victim Impact Statement from the mother of girl B and step-mother of girl A, who sets out the clear and ongoing impact of your offending, described by her as "huge" on the two girls, including the impact on the immediate family. The long-term impact on the girls is, as yet, unclear, but we have no hesitation in accepting that there will be a significant impact. We were also given information as to the impact on X.

You are an 18 year old local resident (17 at the time of offending). You had just completed a college course and were not yet working. You have no previous convictions. You were originally released on conditional bail, but were remanded in custody on 18 September 2024 following a breach of bail.

In 2012, the Court of Appeal provided guidelines in relation to sentencing and indecent images cases in Guernsey and Wicks, Sharp and Towers (Judgment 14/2012) is the case to which this Court has regard. Although the judgment is said to be concerned with the sentencing of what were then offences in relation to indecent images under Section 3 of the Protection of Children (Bailiwick of Guernsey) Law, 1985, as amended, the principles and guidelines are equally applicable to offences in the 2020 Law. It is to be noted that the guidelines covered distributing indecent images of children. In this case, there are two sets of counts relating to the images, namely the making counts and the distribution counts. We will avoid double-counting by treating the distribution as an aggravating factor to the making, which is aligned to the approach in Wicks. At the time of Wicks, reference was made to five levels of seriousness - relevant in your case are levels 4 and 5 which are the most serious and are now reflected by reference to Category A from CAID and level 1 which corresponds to Category C from CAID. The Court of Appeal in Wicks assigns an initial figure for sentence to each category of seriousness and we have adopted the same criteria.

The first band to which we have regard is Category 4 (the making of Category A images) (Counts 3, 5 and 6) where an initial figure in the region of 3 years' imprisonment is indicated. In this case it is accepted that there is one first-generation image of Category C and the first of the bands of sentences in Wicks could be Category 3, which covers being involved in the production of a Category C image, which arguably you did by procuring that image from girl A. The initial figure suggested in Wicks for such images is in the region of 2 years' imprisonment, but, rather than separate this image from the others, we have taken it as an aggravating factor to the making of the Category A images.

The next band to which we have regard is Category 6 (the making of Category C images) (Counts 4, 7 and 8) where an initial figure in the region of up to 6 months' imprisonment is indicated, where the Court is satisfied, as we are, that any aggravating factors are present.

We have decided to take the making of the Category A images (Counts 3, 5 and 6) as the lead offence and we will aggravate the sentences for those counts, which will be concurrent with each other, to reflect the other counts and the aggravating factors, and we will impose concurrent sentences in respect of the other counts, including the distribution (Counts 9 and 10).

The aggravating factors are as follows:

- 3 images – 1 Category A video and 2 Category C images (which are included in the overall numbers) were distributed to girl A, who was only 8 years old;
- there is 1 first generation Category C image of an actual local child;
- there is an element of sophistication in terms of hiding the images, demonstrating technical knowledge in the field of illicit images. We note the use of your mother's phone;
- there are moving images; and
- several devices have been used.

The small number of images is not a mitigating factor. Having taken into account all of that, we revise the starting point for Counts 3, 5 and 6 from 3 years to 6 years.

There are no sentencing guidelines as such for the sending of indecent messages, so we sentence on Guernsey principles in the Guernsey context. We are constrained by the maximum sentence for the offence of 2 years. As has been explained previously, these offences were chosen because the offence under the 2020 Law of Sexual Communications with a Child is summary only, and it was considered important to keep all matters together. Ms Garnham-Burton, you messaged children you knew were much younger than yourself and used language wholly inappropriate for them to read. We are careful not to double-count with the indecent images offences, which include the first generation image, but we note that you did also send the girls adult pornography which is, of itself, indecent. We take a starting point of 18 months for one offence, which we aggravate to 24 months, to take account of the second offence and the aggravating factors which are as follows:

- the element of grooming – attempting to meet up with the children, deceiving and manipulating the girls through the use of the two accounts in which you pretended to be two different people;
- procuring the indecent image of the child;
- the big age gap between you and the children and their very young age; and
- the use of the 'friends' account.

There is a mitigating factor in so far as the offending has occurred over a short period and we are very careful not to double-count with the sentences in relation to the indecent images.

We view the commission of the messages offences as separate from the offending relating to the indecent images. There are direct victims to the messaging offences and separate and consecutive sentences are appropriate. We make the two message offences sentences concurrent with each other, to take account of totality, but individually they are higher than for a single offence.

Mitigation

Plea

The Court must first consider the impact of your guilty pleas on sentence and we afford you full credit or your guilty pleas to all offences.

Personal Mitigation

The Court has considered carefully the extremely thorough Social Enquiry Report prepared in respect of you. The report writer has gone to great lengths to ensure that all relevant enquiries were made and included the procurement of the expert report of Dr Hillier, Consultant Forensic Psychiatrist, to assist in several areas, including diagnosis of mental illnesses and disorders and risk assessment and delivery

of the most appropriate treatment programme for you with your issues. The Court is grateful for the report writer's considerable efforts and is also grateful for the very informative report received from Dr Hillier.

We have also listened to the succinct, but comprehensive, submissions of your Advocate. We have carefully considered the letters provided for you which speak well of you. As your Advocate said, your parents know you well. Your lack of any previous convictions is an important piece of mitigation and we take it into account to the fullest extent. There is also your age, which we will consider separately. We note Dr Hillier's conclusion that you have ADHD, likely mild ASD, low average borderline intellectual impairment, to which your condition of micro-deletion is relevant and we also note that Dr Hillier says, at paragraph 79 that those conditions are not directly significant in the offending, but provide a degree of context, whereby other risk factors have been possibly enhanced. We also note his clinical finding that you have gender-dysphoria and we acknowledge the issues that this may create for you in a prison setting. We note particularly what is said in the letters about your various struggles, your social isolation and relative immaturity. You had a particularly challenging time as a child when you were diagnosed with a serious illness and had to undergo treatment off-Island and this coincided with the serious illness of a close family member and we accept that these events will have affected you deeply. It is a positive that you have the support of your family, who all recognise the need for you to receive appropriate treatment.

Despite your issues and, to your credit, you have achieved some academic qualifications and have been actively engaged in education in the prison and you are keen to acquire new skills. Also to your credit is the voluntary work you have undertaken, assisting with the transport of vulnerable people to activities and supporting them. Those alongside whom you have volunteered have nothing but praise for you whilst recognising your own difficulties, immaturity and vulnerabilities.

We note what the report writer says about remorse, as well as the apology which your Advocate has made on your behalf today to the girls and we note your Advocate's submissions on the relevance of your neuro-diversity to the issue of remorse.

Assessment of your risk of re-offending and the level of risk you pose to others is an exercise which is preliminary only at this stage and will be more accurately carried out once you have been sentenced. The report writer raises a number of issues of concern about your sexualised behaviour. You are assessed as showing a concerning absence of victim empathy and a failure to comprehend the significant harm to your victims and their families. The cause of this must be explored.

According to the assessments which have been carried out by the report writer, you are assessed as having a high likelihood of sexual re-offending, an above-average risk of sexualised offending and a high risk of sexual harm (psychological by virtue of sexual re-offending) as well as a medium likelihood of general re-offending. Dr Hillier's assessment identified a number of risk factors as possibly present and which require on-going monitoring and/or addressing through intervention. His conclusion is that there is a moderately increased risk of future offending if those factors are not addressed.

Dr Hillier's report contains valuable information as to your issues and their impact on your ability to access the usual Sexual Offenders Treatment Programmes. He recommends adaptations to take account of your neuro-diversity and learning difficulties. Dr Briggs, who works closely with Probation in delivering such programmes, has identified one suitable for you, subject to adjustment. Dr Hillier agrees with this approach, as long as it is delivered by a suitably qualified clinician familiar with the adaptations for someone with your neuro-divergent issues. We are satisfied that a suitably adapted programme can be delivered to you and are grateful for the additional information given today.

You are a young person and we must approach sentencing in accordance with the sentencing principles applicable to young persons which, in Guernsey, are set out in the statutory framework under the terms of the Criminal Justice Youth Detention (Bailiwick of Guernsey) Law, 1990. Recent Court of Appeal decisions including that of Topley v Law Officers (2023 GCA027) confirm that age is an important

mitigating factor to be reflected in a final sentence set and we follow the spirit of the English Sentencing Guidelines in affording you a discount for your age. We full acknowledge that a person of 17 or 18 is a young person who lacks maturity and, in comparison, with an adult, any sentence of Youth Detention will seem longer. We have also taken into account specifically what is said in the Social Enquiry Report about your age in terms of maturity as opposed to your chronological age.

Under the 1990 Law, the Court must be satisfied that the only appropriate method of dealing with you is to pass a custodial sentence which is one of Youth Detention, which must not be passed unless one of three factors is satisfied (only two of which apply to you) as follows:

- (a) that a custodial sentence is necessary for the protection of the public or the prevention of crime; or
- (b) that the offence was so serious that a non-custodial sentence cannot be justified.

The Court is satisfied, without hesitation, that both of these apply in your case. The Court is required to take into account any information relevant to your character and physical and mental conditions and should consider reports. In that regard, the Court has had the benefit of the Social Enquiry Report and the report of Dr Hillier. The Court is also required to consider the issue of disruption to education and training. You are accessing education in the prison and the Court is satisfied that there are opportunities for you in Youth Detention for further education and training. Taking into account all of these factors, we are applying a discount of 30% to the sentence reached above to reflect your age.

I confirm that we have taken into account the time which you have served on remand and we note your Advocate's comments as to the necessary delay in sentencing you, arising from the need to gather all the relevant information.

Sentence

The offences you have committed are revolting and there isn't another word for it. For every indecent image of a child, there is a child harmed. The messaging offences are really worrying. The Social Enquiry report writer describes the long-term suffering to victims of such offending and your victims are so very young. Quite how you came to be sending messages of a sexual nature and sending sexual images to children so much younger than you is beyond explanation.

You pose a risk to children and there can be no doubt that you should receive a sentence of immediate Youth Detention to reflect the seriousness of your offending, to deter others from that offending and to protect the public. Whilst you are in Youth Detention, you can undergo the treatment that you need. The sentence will properly reflect the totality of your offending (that is all of the offending together) and will be subject to appropriate discounts for pleas, age and other mitigation. On a more positive note, we are told that you want to learn from this experience and to build a better future for yourself and that is now in your hands. We are going to impose the Extended Sentence Licence which you did not oppose. That and your registration as a MAPPA subject, should be sufficient protection on your release into the community.

Taking into account everything that has been said and applying the appropriate discounts and principles, the sentences will be as follows:

- Count 1 (messaging offence) - 8 months' Youth Detention;
- Count 2 (messaging offence) - 8 months' Youth Detention concurrent;
- Counts 3, 5, 6 & 9 (Category A images) – 2 years' Youth Detention, consecutive;
- Count 4 (making Category C images including first generation image) – 1 year Youth Detention concurrent;
- Counts 7 & 8 (making Category C images) - 6 months on each concurrent; and

- Count 10 (distributing Category C images) - 2 years' concurrent.

Total of 2 years and 8 months' Youth Detention which runs from 18 September 2024.

Having considered the recommendations of the Social Enquiry Report with which this Court agrees, 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 sexual offences. This has two elements: a custodial term, which I have already told you is in total 2 years and 8 months, followed by an Extension Period after your release, through which you will be subject to an Extended Sentence Licence. The Extension Period shall be for the period recommended of 5 years on each of the indecent image offences, concurrently, thereby enabling completion of the work begun whilst you are in prison, as well as monitoring and addressing your progress after release.

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 Licence. The Extended Sentence Licence conditions will be given to you in writing and you will be able to go through them with your Advocate and your mother and make sure you understand them, but I need to set them out now:

The Extended Sentence 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 notify him or her 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).

We are adding additional conditions as recommended in the Social Enquiry Report, which we consider necessary, not oppressive, proportionate and capable of being both understood and sensibly enforced and those additional conditions are as follows:

1. not to have any unsupervised contact with any children under the age of 16 without the prior approval of your supervising officer except where that contact is inadvertent and not reasonably avoidable in the course of lawfully daily life; it is accepted that there is insufficient information available at the moment to narrow this condition further, but there is scope to do so within the discretion of the supervising officer and the matter will be kept under review;
2. not to possess or use a computer or other electronic device capable of accessing the internet or have access to instant messaging services or any other on-line message board or forum or community, without the prior permission of your supervising officer;
3. not to delete the usage history on any internet enabled device or computer used and to allow such items to be inspected as required by the police or your supervising officer.

Such inspection may include removal of the device for inspection and the installing of monitoring software;

4. to allow your supervising officer (or any other person or persons nominated by your supervising officer) to examine any such computer or electronic devices and to identify, when asked, if any such devices are in your possession, under your control or present in your home address and to provide passcodes to any such devices and all applications installed on the devices; and
5. to comply with any requirements specified by your supervising officer for the purpose of ensuring that you address your sexual offending behaviour problems.

Having been convicted of a relevant offence under the Criminal Justice Sex Offenders and Miscellaneous (Bailiwick of Guernsey) Law, 2013, you became subject to the Notification Requirements under Part 2 of that Law. The messaging offences are not relevant offences under that Law. The Court is being asked to consider certifying that they are sexually aggravated, which would make them subject to Notification. Whilst the Court is in no doubt that the test under Section 2(4) of the 2013 Law is made out, it sees no utility in so certifying, as you will be subject to Notification in respect of the other offences in any event.

The period of Notification is a precaution against any risk you may pose and can be further extended. You will be given a written Notice setting out all of 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 when you were convicted;
- within 24 hours of your release you must provide the police with your personal details as set out on the notice you will be given;
- 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 I recommend that you take 23 January 2025 as that date; and
- after your release you must notify the police at least 7 days in advance of any plans to travel abroad but you will be subject to the Extended Sentence Licence, so travel abroad would have to be approved by your supervising officer.

If there is any conflict between the Notification provisions and the Extended Sentence Licence provisions, the Licence provisions are the priority and your Advocate will go through that with you. The Crown's application, pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006, (which was not opposed), for forfeiture of the lawfully seized devices listed in the Prosecution Outline and with the values ascribed in the table and which devices clearly relate to the offences, is also granted, the Court having considered the likely effects on you of forfeiture.

In summary, the sentence is as follows:

- Total term of Youth Detention of 2 years and 8 months from 18 September 2024;
- Extended Sentence Licence of 5 years;
- Notification 10 years from 23 January 2025; and
- Forfeiture of the devices.

Catherine Maureen Fooks
Judge of the Royal Court

27 June, 2025