The Guernsey Court of Appeal upheld a lengthy custodial sentence and extension period for multiple serious sexual offences against children, finding the sentence severe but not manifestly excessive. The Court confirmed that the Royal Court had properly applied the principles of totality, aggravation, and mitigation in sentencing a young adult offender.

[2025]GCA092

IN THE GUERNSEY COURT OF APPEAL
(CRIMINAL DIVISION)
Court of Appeal Case No: 531

11th December 2025

Before: **Clare Montgomery KC, President**
Roddy Dunlop KC JA
The Rt Hon Dame Julia Macur JA

Between:

BEN SPRUCE **Appellant**

-v-

THE LAW OFFICERS OF THE CROWN **Respondent**

Advocate C J Green for the Appellant
Crown Advocate P Cobb for the Respondent

JUDGMENT

Montgomery P

Introduction

1. This is the judgment of the Court on an appeal against a total sentence of 15 years 5 months youth detention with a 5 year extension period imposed on the Appellant in the Royal Court by Judge Fooks sitting with Jurats on 21 May 2025. The appeal is brought with the leave of the Bailiff granted on the papers on 17 June 2025.

2. The sentences were imposed in respect of offences of rape and sexual assault on which, following a trial on indictment, verdicts of guilty were returned. After this trial the Appellant entered late pleas to various other sexual offences: sexual touching, the making of indecent images and the sending of indecent messages. The offences were spread across 18 counts and involved a total of 10 children, all of whom were younger than the Appellant.

3. The conduct consisted generally of grooming by the Appellant of younger boys and girls, starting with messages, the sending and requesting of indecent images, the use of threats, controlling behaviour, intimidation and promises of money and or gifts. This process was then followed by attempts by the Appellant to meet the child and in some cases this led to unlawful sexual activity. The bulk of the offending took place in 2023 when the Appellant was himself aged 17-18 although offences were committed between 2020 and 2024.

4. The charges were split between 2 indictments. Indictment 1 charged sexual offences involving physical contact. Each of the 4 victims were female and under 16. Counts 1 to 3 were the subject of the trial. Counts 4 to 8 were the subject of the later pleas of guilty.

    1) Count 1 was a vaginal rape contrary to section 11 of the Sexual Offences (Bailiwick of Guernsey) Law, 2020 (the 2020 Law), committed on 26 December 2023, against the victim C1 when she was 13. It took place in a field near her home.

    2) Count 2 was an oral rape of C1 on the same occasion.

    3) Count 3 was a sexual assault carried out on C2, a 15 year old girl, in January 2023 in Saumarez Park contrary to section 13 of the 2020 Law. This offence was not the product of prior grooming. C2 was a stranger to the Appellant.

    4) Counts 4 to 6 were concerned with the sexual touching of C3, a 14 year old girl, contrary to section 21 of the 2020 Law. The offences consisted of the forcible penetration of C3's mouth, anus and vagina in May 2023 at Beau Sejour. The activity was filmed by the Appellant, and the images were retained by him and were reflected in the second indictment.

    5) Counts 7 and 8 covered the sexual touching of ~~a~~ C4, a 14 year old girl, involving the touching of her breasts and, through clothing, her vagina and bottom. This activity spanned 1 October 2023 to 31 January 2024. It took place in the lanes by Beau Sejour.

5. Indictment 2 consisted of 4 counts of making indecent images contrary to section 105(l)(a) of the 2020 Law grouped by category by reference to the Child Abuse Images Database ("CAID"). The most serious category is Category A, which includes penetrative sexual activity, sadism or sexual activity between children and animals. Category B covers non-penetrative sexual activity. There were also 6 counts of sending indecent messages contrary to section 16(1)(a) of the Telecommunications (Bailiwick of Guernsey) Law, 2001. All the recipients were children under 16.

    1) Count 1 (from 29 April 2023 to 31 May 2023) concerned 28 Category A images including 14 images of C3 and 14 of C7.

    2) Count 2 (from 29 April 2023 to 30 May 2023) concerned 8 Category B images, including 5 images of C3 and 3 of C7.

    3) Count 3 (from 11 December 2023 to 13 December 2023) concerned 4 Category A images, all images of C7.

    4) Count 4 (from 29 April 2023 to 13 December 2023) concerned 2 Category B images, both of C7.

    5) Count 5 (between 11 May 2023 and 31 December 2023) related to indecent messages sent to C5, a girl.

    6) Count 6 (between 14 April 2023 and 31 December 2023) related to indecent messages sent to C6, a girl of 12, pushing her to view sexually explicit material.

    7) Count 7 (between 23 April 2023 and 31 December 2023) related to indecent messages sent to C7, a 14 year old girl who was persuaded to provide sexual images charged earlier in the indictment.

8) Count 8 (between 1 August 2020 and 15 November 2020) related to indecent messages sent to C8, an 11 or 12 year old boy who was eventually persuaded, under threat, to send a video of him inserting an object into his anus which the Appellant sent to C8's friends.

9) Count 9 (between 1 September 2020 and 28 April 2023) related to indecent messages sent to C9 a boy who was 14 in 2020, whom the Appellant eventually persuaded to send sexually explicit videos and images.

10) Count 10 (between 1 April 2023 and 31 December 2023) related to indecent messages sent to C10, a girl, whom he later threatened.

6. A full account of the facts underlying each of these charges is set out with clarity in the prosecution outline for sentencing as well as in the judgment of the Royal Court. It is not necessary to set out the detail here since there is no dispute as to the description of the Appellant's conduct or the gravity of his offending.

The impact of the offending

7. Not all the victims provided victim impact statements, however each child would have been seriously affected by the conduct of the Appellant. Although the rapes and the sexual assaults against C1 and C3 involve the most brutal and intrusive conduct, the exposure to the Appellant must have been damaging for each of the children involved. In many cases the children were subjected to threats and had to endure the humiliation of dealing with the consequences of the offences, including the stress of dealing with police investigations and potentially having to give evidence. In relation to the indecent images, the images included first generation images of a local child. The offences are likely to have lifelong consequences for some of the children.

The Appellant's background

8. The Appellant was born on 18 May 2005 in Guernsey and is now 20 years of age. He was educated locally although in 2020 he had to be treated for Hodgkin's Lymphoma in Southampton. Shortly after he was 18 he received an autism diagnosis. He has a recent history of depression and anxiety. At the time of his arrest he was working. He has one relevant caution for the possession of an indecent image administered on 30 October 2023 but was otherwise of good character. He has been in custody since 7 March 2024. A Probation officer observed that the Appellant had little insight into his offending and had shown limited remorse. The view of the officer is that the autism diagnosis was not a causal factor in the offending behaviour.

The approach of the Royal Court to sentencing

9. It is important to consider how the Royal Court approached the sentences that it handed down. It sought to identify starting points for each offence or group of offences. In the case of the rapes the Court identified a starting point of 5 years. For the sexual assault the starting point was 1 year. The sexual touching of C3 which involved penetrative touching had a starting point of 4 years. For C4 a starting point of 2 years was chosen. The indecent images in category A were ascribed a starting point of 6 years and the images in category B, 4 years. Finally, the indecent messaging was started at 18 months.

10. The Royal Court then identified aggravating features in all but one of the cases which resulted in significant uplifts in the sentences identified before taking account of mitigation and totality. The aggravating features included the ages of the victims, the element of grooming, the impact on the victims and the commission of similar offences. In the case of the rapes the increase was to 12 years. The sexual assault remained at 1 year. The sexual touching of C3 increased to 8

years. For C4, 3 years was chosen. The sentence for indecent images in category A were increased to 12 years and the images in category B, to 6 years. Finally, the indecent messaging was increased to 4 years.

11. Following this analysis the Royal Court considered the mitigating features, which included the pleas of guilty. None of the pleas were offered at the earliest opportunity but most were offered before the start of trial. The Royal Court also gave particular recognition to the fact that the offences were committed when the Appellant was undoubtedly immature and less able than an older man to control his impulses. The Court considered the decision in Topley v The Law Officers (2023) GCA 027 and recognised in terms that a specific reduction would be required to reflect the age of the Appellant and the comparatively greater impact of a very long sentence on a relatively young man. The Court stated that it was allowing a reduction of between 25 - 30% to reflect this factor.

12. The Royal Court then stated that it was applying the totality principle before passing sentence. It did this by passing both consecutive and concurrent sentences and making reductions in the individual sentences, beyond those that might be expected for personal mitigation. The sentences imposed in respect of the rapes were 7 years and 2 months, with 6 months consecutive for the sexual assault (reduced from the uplifted sentence of 13 years). The sexual touching of C3 resulted in a consecutive sentence of 2 years (reduced from 8 years) and the sexual touching of C4 resulted in a consecutive sentence of 21 months (from 2 years) so that the total sentence on the first indictment was 11 years and 5 months. On the second indictment the Court passed a consecutive sentence of 3 years on count 1 for the indecent images (down from 12 years on the category A counts) and a further consecutive sentence of 1 year on count 5 of the indecent messages (down from 4 years) with the remaining counts the subject of concurrent sentences. Thus, the sentences on the second indictment resulted in the total sentence of 15 years 5 months youth detention with a 5 year extension period.

The Appellant's contentions

13. The Appellant argues in his revised grounds of appeal and his written contentions that the overall sentence was manifestly excessive.

14. It is suggested that the Court failed to apply the totality principle, sufficiently or at all. It is contended that this was the result of the use of excessive starting points, the inappropriate imposition of consecutive sentences resulting in double counting of aggravating features, and sentencing the Appellant as an adult on the indecent images in counts 1 and 2 of the second indictment. It is also argued that insufficient weight was given to strong mitigating elements.

15. Although the extension period is said to form part of the manifest excess in the sentence, no argument has been addressed to suggest that this was not fully warranted given the Appellant's risk profile.

The Respondent's Contentions

16. The Respondent, in equally thorough contentions argues that the sentence imposed upon the Appellant was neither unreasonable nor outside the range which could reasonably be considered to be appropriate.

17. The Respondent further contends that the Royal Court was perfectly entitled, and indeed perfectly placed, to exercise its discretion to select the sentences that it did.

Discussion and conclusion

18. We are not persuaded that the Court was wrong to identify the starting points that they did and then create uplifts to reflect the numerous aggravating features. It is notable that it is accepted that the uplifted sentence for the rapes was within the range specified in Law Officer v Trenchard [2024] GCA 025. None of the initial starting points for the other offences are criticised. However, the aggravated sentences for the sexual touching of C3, and for the indecent images and messages are said to be too high.

19. We do not agree that the aggravated starting point for C3 was too high. The offences were very serious and the aggravating features fully justified a significant uplift. C3 was a vulnerable child who had been groomed by the Appellant before he had unprotected sex with her. She was forcibly anally, orally, and vaginally penetrated. The Appellant filmed this activity and sent the images to C3.

20. The uplifted sentences for the indecent images and messages were arguably high; in both cases above the statutory maximum for individual offences. However, the use of consecutive sentences for multiple offending clearly justified an overall sentence that exceeded that maximum in cumulation on uplift in this case before stepping back to consider mitigation and totality. We are not persuaded that any element of double counting resulted from the use of consecutive sentences. It is notable that, in effect, a single consecutive sentence was passed for the indecent images, and a single consecutive sentence was passed for the indecent messages. This approach did not violate the guidance given in Skopans v AG [2011] JRC 201. Neither sentence exceeded the statutory maximum and both sentences included significant conduct elements that were not reflected in other counts in the indictments.

21. The number of images and the degree of distribution do not establish that the uplifted sentence for the images was too high. As we have noted these were first generation images. Even if they were not distributed, they were available for distribution and permitted the Appellant to make threats of distribution if he thought it expedient. The creation of first generation images available for distribution is a vital first step in the availability of indecent images generally and establishes the active involvement of the Appellant and the threat of exposure for his victims, particularly any local victims. There is nothing to suggested the uplifted sentences were outside the guidance in Wicks, Sharp & Towers v Law Officers of the Crown 2011-12 GLR 482.

22. Counts 1 and 2 in the second indictment spanned a period that covered the Appellant's 18th birthday, so some part of the indicted conduct was committed as a child but some as an adult. Since the images were made and retained when the Appellant was an adult we do not consider that the sentences in respect of these indecent images required a downward adjustment over and above the adjustment of 25-30% for youth referred to below.

23. The complaint about the uplifted sentence for the messages appears to us to be equally misplaced. Although there was a variation in each count in relation to the aggravating features, it is not possible to say that the mitigated single sentence of 1 year was wrong in principle. It was well within the range of rational sentencing responses where there is multiple offending of the same character, even where the precise aggravating features are variable, in many case driven by the variability in character of the child victims.

24. The mitigating factors that are said to support the overall complaint about totality do not seem to us to justify any significant reduction beyond a reduction for youth and a more modest reduction for late pleas of guilty. The reduction of 25-30% in sentence applied by the Royal Court was an appropriate acknowledgment of the principles governing the sentencing of children and young adults.

25. The claims that are made as to the weight to be given to the Appellant's remorse and rehabilitation are overstated and, in our judgment, did not warrant any reduction in the custodial term or the extension period. Both the claimed remorse and insight on the part of the Appellant

were, at best, recently exhibited and were in stark contrast to his initial denials of any offending and his limited awareness of his responsibility for the real harm caused to his victims.

26. As has often been said, sentencing is not a science, nor should the courts be bound by mathematical precision, particularly where (as here) the central issue is the question of totality. We would observe that it is not always possible to reconcile on a numerical basis the overall calculation of the sentence and its component parts at each stage of the calculation. This is the case with the sexual touching of C3 where the mitigated sentence was arguably too low (as the Court itself recognised). We have not been assisted by the argument that the initial or uplifted sentence in relation to C3 was too high in view of this significant reduction. We are also not persuaded that there was any objectionable double counting in respect of C3 in relation to the touching and the images. The total sentence in respect of C3 was 2 years for the touching and 3 years consecutive for the images. An overall sentence of 5 years (leaving aside the other images) was fully justified in relation to C3 alone.

27. It is clear, in this case, that the individual sentences identified after the calculation of the uplifts were not determinative of the final sentence. Any calculation based even on more moderate sentences in the ranges for these offences could have resulted (if sentences were passed consecutively) in sentences of well over 25 years being imposed in the case of an adult offender.

28. In the result, this appeal turns on whether the sentence is overall too long so as to make it manifestly excessive. The sentence is in totality a long sentence for a young man to serve but it reflects a catalogue of disturbing uncontrolled serious and persistent sexual offending causing harm to many. The sentence was severe but we are not able to say that it is manifestly excessive. It is appropriate and proportionate that this campaign of sexual offending with wide ranging effects on the child victims should be met by a condign sentence. The length of the sentence and the extension period are also justified by the real concerns raised as the continuing risk of serious sexual offending posed by the Appellant. It is clear to us that the Royal Court had the issue of totality well in mind.

29. For these reasons, this appeal against sentence is dismissed.