



**THE COURT OF APPEAL**

**Birmingham P.  
Edwards J.  
Kennedy J.**

**Record No: 93/2017**

**THE PEOPLE (AT THE SUIT OF  
THE DIRECTOR OF PUBLIC PROSECUTIONS)**

**RESPONDENT**

**V**

**M. McC.**

**APPELLANT**

**JUDGMENT of the Court (*ex tempore*) delivered on the 9th day of November, 2020 by  
Mr Justice Edwards**

**Introduction**

1. This case was originally listed for trial in the Central Criminal Court on the 11th of January, 2017. However, on the 22nd of December, 2017, the prosecution was notified that the appellant had decided to plead guilty to 52 representative counts on a full facts basis. The indictment contained 187 offences, namely: 40 counts of rape contrary to s. 4 of the Criminal Law (Rape) (Amendment) Act, 1990; 56 counts of sexual assault contrary to s. 2 of the 1990 Act; and 91 counts of indecent assault contrary to common law. The offending behaviour was inflicted on seven children from one family, collectively aged between 7-17 years old, when the appellant was aged between 15 to 32 years old.
2. The representative counts comprise as follows:
  - a) 17 counts of rape, namely:
    - i) counts 96, 98, 102, 105, 134, 138, 142, 147, 148, 167, 171, 175, 179, 184, 185, 186 and 187
  - b) 10 counts of sexual assault, namely:
    - i) counts 76, 80, 84, 88, 92, 123, 127, 131, 150 and 151
  - c) 25 counts of indecent assault contrary to common law, namely:
    - i) counts 1, 5, 9, 10, 15, 20, 24, 28, 33, 34, 38, 42, 46, 50, 54, 55, 59, 63, 67, 71, 106, 108, 113, 115 and 119.

3. On the 20th of March, 2017, the sentencing judge imposed upon the appellant a sentence of 20 years' imprisonment in respect of each of the rape charges; 9 years' imprisonment in respect of each of the sexual assault charges; and 4 years' imprisonment in respect of each of the indecent assault charges. All sentences were to run concurrently and to date from the 13th of March, 2017, and the appellant was to be subject to five years' post-release supervision under the directions of the Probation and Welfare Service.

**Background to the matter**

4. The appellant was born on the 2nd of June, 1967. At some point in 1982, he was hired to assist part-time on a pig and dairy farm run by the parents of the injured parties. In 1983, the appellant was given a full-time position on the farm, after having left school at the age of 16. He was later invited to reside with the family, and slept on a mattress on the floor in between the beds of the children D.T. and S.T., then aged 11 and 9, respectively.
5. The offending in respect of the three eldest children, D.T., S.T., and R.T., overlapped between May 1983 and October 1984. The abuse of S.T. and R.T. further overlapped between May 1983 and November 1988. The appellant began abusing K.T. from September 1986, followed by A.T. in January 1988, and E.T. in April 1988. The abuse of the latter three victims overlapped with some of the abuse of S.T. and R.T. The offending will be detailed below in relation to each victim in turn.

*D.T. (born 1971)*

6. D.T., male, was the oldest child, and was the victimised by the appellant from October 1982 until August 1984, at a time when he was aged between 11 and 13, and the appellant was between 15 and 17. The offending behaviour progressed from the appellant touching the genitals of D.T. outside, then inside, his clothing; to performing oral sex on D.T. whilst he masturbated himself; and to anal rape. The appellant also at times showed D.T. pornographic magazines in a cattle trailer. The appellant groomed D.T. with gifts of music tapes, T-shirts and sweets. Due to their sharing a bedroom, D.T. knew that his younger brother S.T. was also being assaulted, and begged the appellant to leave him alone.

*R.T. (born 1976)*

7. R.T., female, was 7 years old when the assaults began in May 1983, lasting until May 1989, when the appellant was aged 16-22. The offending behaviour began with the appellant getting her to touch and rub his penis. He would also masturbate himself in front of her around the farm whenever they were alone. There were regular occurrences of the appellant forcing her to take his penis into her mouth whilst thrusting her head forwards and backwards with his hands, until he ejaculated in her mouth. At one stage when she was 11 or 12 years old, the appellant touched R.T.'s breasts on a bed in one of her brother's bedrooms as he masturbated himself. He proceeded to take off her underwear and made an unsuccessful attempt to insert penis into her vagina. Whilst he was doing this, he was making comments about her weight and laughing.

*S.T. (born 1973)*

8. S.T., male, was 10 years old when the appellant began assaulting him in November 1983. This continued until he was 15 in November 1988. The appellant was then aged 16-21. The appellant praised the work ethic of S.T. on the farm, and began showing him pornographic magazines and masturbated himself as he felt around S.T.'s genital area. He progressed to performing fellatio on S.T., often on a low wall in what was known as the "fattening shed" of the farm. He was abused every night in their bedroom after D.T. had gone to sleep. The rest of the offences occurred around the family home or in the derelict farm house. There was an incident of oral sex and anal rape in a laneway adjacent to the family house on one occasion when S.T. was between 10 and 12 years of age, during the course of which S.T. had cried out in pain. S.T. once noticed the appellant naked on all fours, behind his younger brother, E.T., also naked and on his hands and knees. S.T. told the appellant to leave the younger children alone.

*E.T. (born 1978)*

9. E.T., male, was aged between 10 and 17 during the 7-year period from April, 1988 to April, 1995 in which he was subjected to abuse by the appellant. He initially witnessed the appellant with his trousers down performing oral sex on S.T. in the fattening shed, after which he was chased down by the appellant, who warned him not to inform anyone of what he had seen. When the abuse of E.T. began in 1988, the children's mother was ill, and E.T. had been told by the appellant that hearing the news would kill her. These offences commenced with the appellant touching him around his genital area, then quickly progressed to touching him inside his trousers, and taking down his underwear and masturbating him and showing him how to masturbate the appellant. When E.T. was around 11 or 12, the appellant began attempting to insert his penis into his anus. On the first occasion, he placed him lying on the low wall in the fattening shed and performed oral sex on him. He then took him down from the wall and hung him across a gate, where his feet could not touch the ground. The appellant then made an unsuccessful attempt, to insert his penis into E.T.'s anus. The appellant spat on his hand to lubricate the anus but was still unsuccessful. The following day, the appellant brought Vaseline to aid in penetrating E.T. digitally, before penetrating him with his penis. E.T. described bleeding which lasted for a week. Irrespective of this, the appellant repeated the act a few days later. The appellant made E.T. masturbate himself in front of him, while he also masturbated. The sexual offences occurred in the fattening house at the family farm, and on one occasion, in the family home.
10. E.T. recalled one occasion in the fattening shed when the appellant performed oral sex on him whilst simultaneously touching K.T. This was also recalled by K.T.

*K.T. (born 1979)*

11. K.T., male, was abused for 10 years between September 1986 and September 1996, from the ages of 7-17. The appellant was then aged 19-30. The appellant initially purchased K.T. a pair of swimming trunks and instructed him to bring them to the fattening shed

whereupon the appellant performed oral sex on him and masturbated himself to ejaculation. He told K.T. to keep the incident a secret. The offences occurred on a regular basis and included touching K.T. around his genital area, performing oral sex on him, requiring him to perform oral sex on the appellant, and also to masturbate the appellant. K.T. was afraid of the appellant; afraid of getting into trouble or being hurt by the appellant. K.T. recalled the appellant pushing his head towards his penis, as well as the smell of it and how it hurt his mouth, due to stretching his mouth area. On occasion, the appellant simulated sexual intercourse and ejaculated on the stomach of K.T. The offences occurred on a weekly basis at the family farm and approximately 20 to 30 times in the family home. When K.T. was 14, the appellant first attempted to have anal sex with him, rubbing Vaseline around the anal area and inserting his finger prior to attempting to assert his penis into his anus, but was unsuccessful. A further attempt was made when K.T. was 15 years old. This attempt was successful, and the appellant ejaculated inside K.T., which left K.T. in great pain. These incidents of section 4 rape occurred approximately 10 times when K.T. was aged between 15 and 16 years old

*A.T. (born 1981)*

12. A.T., female, was subjected to two instances of abuse between January 1988 and January 1990, when she was aged 7 and 9 years old, respectively. In the first incident, A.T. was standing on a piece of furniture in order to reach to a cupboard when the appellant lifted her into his arms and brought her to his bedroom where he removed her underwear, then blew on and rubbed her vagina with his finger. She wet herself slightly. The appellant began to lick her, and she saw that he had his penis exposed in his hand and was masturbating. He promised her a gift and told her to consider the incident as their little secret. She apologised to him for wetting his bed. Shortly afterwards she was brought by him to his bedroom again when he removed her underwear as she lay on the bed and as he knelt on the floor in front of her. However, the appellant was interrupted and could not proceed with the assault.

*N.T. (born 1982)*

13. N.T., male, was the youngest sibling subjected to the abuse of the appellant, when aged between 10-17 from September 1992 to September 1999, and when the appellant was aged between 25-32. The abuse began with the appellant forcefully kissing N.T. and eventually fellating him by the age 13. This occurred about twice a month. Upon turning 13 or 14, N.T. was subjected to regular ordeals of anal rape ending in ejaculation around the farm, and on car journeys, and at the family home and at a beach\*. From the age of 15, these offences occurred on a weekly basis. From September 1992, when this abuse began, until September 1996, it overlapped with the appellant's abuse of K.T. which itself spanned a 10-year period from 1986 to 1996.
14. The offending did not cease on a voluntary basis. E.T. threatened to inform his parents of the abuse unless the appellant left. Subsequently, he made a statement of complaint on foot of which a Garda investigation commenced and the appellant was arrested on 23rd June 2015.

## **Impact on the victims**

*D.T.*

15. D.T. describes how he had a happy childhood until the abuse began. He states that he was also subjected to physical attacks by the appellant, and it was only when he was old enough to defend himself when the abuse stopped. At that point, the appellant mentally abused him and degraded him in front of his family. He states that the appellant tried to normalise the abuse by saying that he loved D.T., that they were friends having fun. D.T. felt under immense pressure and intimidation from the appellant, and found it hard to get away from him. He frequently cried himself to sleep as a child.
16. D.T.'s life has been plagued by anxiety and negative feelings such as anger, distrust, low self-esteem and depression. He states that he can see no future for himself, and he does not look forward to anything in life. He was shocked to discover the extent of the abuse carried out on his siblings, and views his life as a funeral every day.

*S.T.*

17. S.T. states that he had a happy childhood cut short by the arrival of the appellant. He recounts feelings of confusion, fear, intimidation and vulnerability, and ended up leaving school at a young age to escape the appellant. From a young age, he began drinking heavily, and has found it hard to hold down a steady relationship. However, he now has the support of his wife, who has helped him find further help, without which, he believes he would not have been able to cope. S.T. still suffers from flash backs of the abuse, which can last for days, and interrupt his sleeping.

*R.T.*

18. R.T. recalled how the appellant, when abusing her, spoke of her appearance and made fun of her weight, which resulted in severe self-esteem issues. She realised that the abuse was wrong when she entered sixth class. She sought help in school, but nothing came of it. She has struggled with sexual relationships, but now has a husband and two children. She does continue to worry about the impact of the past on her future. She also speaks of a palpable edge present at family gatherings, that being the unspoken subject of the abuse suffered by so many of her siblings.

*E.T.*

19. After the appellant touched E.T. and his brother K.T. together, E.T. felt responsible to protect his brother, and would accompany the appellant on the farm to, as it were, sacrifice himself to save his brother. He was filled with dread about what could happen when he was ever not at home. At the age of around 16-17, E.T. attempted to commit suicide. He was found by the appellant, who promised not to abuse him again, but abused him later that same day. E.T. drank heavily to cope, and his first marriage fell apart. He states that his relationship with his children was also affected. E.T. became a social care worker, but had to leave this as the work was bringing back thoughts of his own past. He sought therapy, but his condition progressively worsened, and he became a patient in a

psychiatric hospital in February 2016. He finds it challenging to participate in family life, and 30 years on the accused's actions are still dominating his life.

*K.T.*

20. K.T. describes many consecutive nights plagued by nightmares, as a result of which he would wet the bed. He still suffers from flash backs, and has marked difficulty sleeping. He has problems with trust and intimacy, as a result of being groomed, manipulated and threatened. He still experiences feelings of panic, guilt and humiliation. He lived in utter fear of his parents finding out and felt powerless. He suffered a severe mental breakdown in 2016 and he was out of work for months, and now requires medication to get through the days.

*A.T.*

21. Like her siblings, A.T. refers to the loss of her childhood due to the actions of the appellant. When the abuse began, A.T. believed it to be normal. All of her family were vulnerable, and the appellant preyed on this fact. She feels deeply hurt and angry, and regrets not taking action years ago. She feels an enormous sense of loss for the normal family life that was taken from them. She also expresses fear that this may have occurred with other victims in other families.

*N.T.*

22. N.T. recalls his mother asking him whether or not any abuse had occurred, but he denied it because he was so frightened due to the threats from the appellant. His denial still haunts him, and he feels a sense of guilt. This gave rise to great undermining of family life. Many of them resorted to heavy drinking, which ruined several family occasions. He states that E.T. had persistently sought justice, which was met with a degree of hostility from the other family members.

#### **Circumstances of the appellant**

23. The appellant was born on the 2nd of June, 1967. He is married with three children, the eldest of which is around 17 or 18. Nothing untoward emerged from a HSE enquiry into his own family. When arrested on the 23rd of June, 2015, the appellant made no admissions.
24. The court received a medical report which stated that the appellant takes an anti-depressant or similar-type medication. The court was also furnished with several testimonials which speak to his engagement with community work assisting in his local church, and with the GAA. He has been employed by the same employer for 13 years.

#### **Remarks of the sentencing judge**

25. The sentencing judge began by characterising the offences as being of "the utmost gravity", and noted that the age at which the appellant began residing with the family would have meant he would have been regarded as akin to a family member, and would have carried out a serious breach of trust.

26. The sentencing judge discussed the overlap of the abuse across the children:

*"Now, you will see then that the offences occurred in the case of [D.T.] between 82 and 84, in the case of [S.T.] between 83 and 88, so an overlap there, in relation to their sister [R.T.] it was between 83 and 89, again an overlap. So far as [E.T.] was concerned between 88 and 95, again an overlap; [K.T.] 86 to 96, overlap, [A.T.] 88 to 90 and [P.T.] 92 to 99. So, you can see that there was serial abuse taking place contemporaneously at all times with a number of children and it wasn't even a case of moving to younger children, so to speak, when he was rebuffed by older ones. He, in fact, moved downwards, so to speak, in terms of the age of those with whom he to whom he subjected these offences."*

27. After recounting the facts of the case and the impacts on the victims, the sentencing judge stated the following:

*"This is a plea of guilty. It is at the very utmost level of seriousness, perhaps only subject to the cases, and they have occurred, where one might have even had a parent engaged in this type of activity, but nonetheless, any distinctions are invidious at a particular stage. There is a threshold of seriousness which has been reached in this matter and above that threshold no rational distinction is possible between, for example, an offence involving these children by this man and say a parent or a father involving young children. Each of them exceeds the threshold falling into the category of offences of the utmost seriousness. Sentencing is not an exercise in vengeance. One must the sentence must be proportionate to the crime.*

*One is sentencing for these offences and this man, not some notional offences. One must have regard to the possibility of rehabilitation. It appears that insofar as he has not committed offences since a rehabilitation is something which in practical terms doesn't arise in this case. He must be given some prospect, on a human level, of light at the end of the tunnel. Sentencing is an issue of great complexity. One must seek to balance the various factors. This is a case where undoubtedly the question of imprisonment for life is a very live matter. I have struggled with this. I've come to the view that because he pleaded guilty a determinate sentence should be imposed upon him and I think then the sentence should be one of 20 years imprisonment and I impose that sentence on each of the section 4 rapes.*

*In relation to the sexual assaults concurrently, in relation to the sexual assaults I impose a sentence of the four years imprisonment, the maximum being five, again to run concurrently and in relation to the indecent assaults, as we know there's no statutory maximum but in point of law the test of sentencing is whether or not the sentence is reasonable and I think the appropriate approach is to regard 10 years as the maximum because that would be the appropriate sentence in the case of a female. Of course, I should add that in the case of the two sisters who were abused it is, in fact, in statute maximum but in respect of the males it is not in strictness, but in practice is the maximum and I would impose a sentence of nine*

*years on each of those indecent assaults. The sentences to run concurrently, very good. I will also impose a period of five years post release supervision. The Court does not have regard to periods of remission but this man undoubtedly, on any view of the matter, will be in his mid to late 60s on release, but it is nonetheless appropriate that there be a period of post release supervision, so five years post release supervision and I will leave it rather than going into undue detail to the terms of the that would be to abide the directions of the Probation and Welfare Service. More elaborate instructions are given at times, I'm not going to do that in this case. Very good."*

### **Grounds of Appeal**

28. The notice of appeal filed on behalf of the appellant sets out four discrete grounds on which he seeks to appeal. These are:

- (1) The sentence was unduly harsh.
- (2) The sentencing judge failed to strike an appropriate balance between the aggravating and mitigating factors when deciding upon the appropriate sentence.
- (3) The sentencing judge failed to have due regard to the complete absence of prior or subsequent convictions.
- (4) The sentencing judge failed to have sufficient regard to the age of the accused at the time at which the offending commenced.

### **Submissions**

29. We were referred by Counsel for the appellant to the judgment of Denham J. in *The People (Director of Public Prosecutions) v. M* [1994] 3 IR 306, where she stated at p.317 that:

*"Thus having assessed what is the appropriate sentence for a particular crime it is the duty of the court to consider the particular circumstances of the convicted person. It is within this ambit that the mitigating factors fall to be considered."*

30. We were also referred to *The People (Attorney General) v. O'Driscoll* [1972] 1 Frewen 351, where Walsh J. stated:

*"The objects of passing sentence are not merely to deter the particular criminal from committing a crime again but to induce him insofar as possible to turn from a criminal to an honest life and indeed the public interest will be best served if the criminal could be induced to take the latter course."*

31. Further, we were referred to certain passages from the Law Reform Commission's Issues Paper on Suspended Sentences (LRC IP 12 – 2017), and in particular the assertion at paragraph [1.19] therein that amongst the general sentencing aims to which the criminal courts will have regard is the aim of rehabilitation, and in that regard that:



*"Rehabilitation is also concerned with crime prevention, but whereas deterrence views individuals as rational actors, rehabilitation considers them to be in need of help and support. A sentence is rehabilitative where it aims to reintegrate the offender back into society. Rehabilitative programs, such as treatment programs, counselling and vocational training, aim to address the underlying causes of the offender's criminal behaviour. The Irish courts consider rehabilitation to be a vital consideration at sentencing, and frequently include it alongside another sentencing aim."*

32. It was submitted that the sentencing judge had not had sufficient regard to the appellant's personal circumstances in discounting for mitigation, nor had he attached sufficient importance to the sentencing aim of rehabilitation. It was suggested that this was a case in which the sentence ought to have been structured to include a suspended period in the interests of promoting rehabilitation. It was suggested that the terms on which the sentence could be part suspended could include a condition requiring the appellant to undergo counselling or some other therapeutic or treatment course while in prison, and that an arrangement could be put in place whereby it could be certified by the prison authorities that such a course had been available and that the appellant had availed of it, or had not availed of it, as the case might be.
33. As to the alleged failure to take the appellant's personal circumstances sufficiently into account, it was complained in specific terms that the sentencing judge had failed to attach sufficient importance to the fact that the appellant had had no previous convictions prior to his convictions in this case, or to the fact that he has not reoffended in the eighteen years since the commission of the latest of the offences to which he pleaded guilty. Moreover, it is suggested that insufficient regard was had to the age at which he had committed the offences.
34. In reply, counsel for the respondent contends that there was no error in the approach of the sentencing judge. In regard to the absence of other convictions, he submitted that while a previous good record (absence of prior convictions) can be a mitigating feature where it points towards the fact that the commission of an offence amounted to a lapse from grace, and that is to recognise and acknowledge inherent human frailty, this was not such a case. The heinous nature of offending over 17 years against seven young children largely dispels the absence of convictions for other crimes. It could not be said on any basis that the appellant had come before the sentencing court as a person of good character.
35. Counsel for the respondent drew her attention to the following observation by Mr Thomas O'Malley in his well-regarded textbook on Sexual Offences (2nd ed 2013):

*"As in other areas of criminal law, "character" may be interpreted to mean either disposition or reputation. It is suggested that, for two reasons, character in a sentencing context should refer primarily to disposition. First, a court should be concerned to identify the kind of person the offender is, and not the kind of person he publicly projects. Disposition is what matters when it comes to identifying the*

*person's human qualities and the likelihood of reoffending. Secondly, as reflected in.... many child abuse cases coming to light in this country, reputation can be highly misleading. Many convicted child abusers will have spent most of their lives as highly esteemed and respected members of the community. Discounting reputation does not, of course, preclude a court from receiving evidence which redounds to the offender's credit in terms of having made many positive contributions to the community and so forth. Contributions of this kind may well have added to the offender's public reputation, but that is beside the point".*

36. We approve of and endorse Mr O'Malley's remarks as representing a correct statement of the law.
37. The point was made to us that the appellant did not cease his gross sexual abuse of the "T" children of his own volition. He stopped only when threatened with exposure. It was submitted that this case, acknowledged as being "*at the very utmost level of seriousness*", ought to be distinguished from cases where first time offenders are generally treated with some leniency.
38. In the recent guideline judgment on the sentencing of offenders in cases of rape and serious sexual assault, namely *The People (Director of Public Prosecutions) v F.E.* [2019] IESC 85, the Supreme Court, *per* Charleton J., noted at paragraph 27 that:
- ".....for the purpose of this judgment, the factors of mitigation mentioned in relation to rape include strong work record, full admissions, early plea of guilty, genuine remorse, substance abuse problems, difficult upbringing, intellectual impairment and **prior character**. In terms of aggravation, among the factors are prior convictions, the duration of the abuse, attacking a victim in their own home, physical domination, systematic grooming, applying a victim with alcohol and being a family member" [emphasis added].*
39. It was submitted that in this case, the appellant appears to conflate the absence of prior convictions with good character. That said, Professor O'Malley acknowledges one instance where evidence that a convicted sex offender has otherwise been of good character might be given "*reasonably significant weight*". This is where "*a long interval has elapsed since the offences were committed, when there is nothing to suggest that the offender, who may have been quite young at the time of the offences, has reoffended in the meantime and when, during that time (which may be years or decades), he has led a productive and law abiding life.*" It was submitted that in the instant case, however, whilst the appellant was a youth of 15 when he commenced abusing the "T" children, he persisted with his conduct into adulthood and extended his offending by commencing the abuse of four of the seven when he was already an adult.

#### **Discussion and decision**

40. We have no difficulty in accepting the general proposition alluded to by the Law Reform Commission in its Issues Paper on Suspended Sentences that rehabilitation has long been, and remains, an important aim of sentencing. Moreover, we have no difficulty in

accepting that in an appropriate case a sentence may be structured to include a suspended period of promoting and incentivizing reform and rehabilitation. However, we have also said in the case of *The People (Director of Public Prosecutions) v. O'Brien* [2018] IECA 2 that:

*"While... the correct prioritisation of penal objectives is to be determined by the circumstances of the particular case based on the evidence, we readily accept that in many cases it may indeed be appropriate to prioritise the penal objective of rehabilitation. There will, however, be other cases where it may be appropriate to prioritise deterrence, or retribution and incapacitation."*

41. This statement of principle is expressly quoted and acknowledged by the Law Reform Commission in its recent Report on Suspended Sentences [LRC 123 – 2020] at paragraph 3.19. In this particular case there was no evidence of remorse, and no evidence of an earnest attempt to reform or to rehabilitate. It is true that there is equally no evidence that the appellant committed any further offences in the eighteen years since the latest of the offences to which he pleaded guilty. However, while it is not suggested that it is a matter of no consequence, it is not the same thing as having pledging in some concrete way to reform, and/or demonstrating a willingness to undergo rehabilitation.
42. The circumstances of this case were extraordinarily serious. Very sensibly, counsel for the appellant did not seek to suggest that the sentencing judge was not entirely within his rights to have considered a life sentence. However, having regard to the fact that the appellant had pleaded guilty, and the other modestly mitigating factors to which counsel for the appellant points, he decided not to impose a life sentence. By not doing so, the appellant received the significant benefits of a determinate sentence, with the possibility of securing remission. This was to afford leniency and represented in our view a significant discount from the headline sentence of imprisonment for life. We find no error of principle in the circumstances.
43. There was no reality to any suggestion that this was an appropriate case in which to suspend a portion of the sentence in the interests of rehabilitation. There did not exist, in our assessment, a sufficient evidential basis to justify taking such a step. There was nothing to suggest that the appellant had gained any insight into his offending, that he was willing to take any steps to identify and address any underlying problems that he might have, or that he was remorseful. Moreover, the appellant had not been particularly cooperative. He was entitled of course to rely on his right to silence and he is not be penalised for that, but equally it cannot be said that the manner in which he met the case during the investigative phase was mitigating. It certainly was not indicative of any kind of insight into the "wrongness" of the rape and sexual assault of children, or of any appreciation of the harm that he had done, or of any determination on his part to take responsibility for his actions. We do recognise that, ultimately, he did plead guilty. His pleas of guilty were undoubtedly valuable but they were not particularly early pleas. That having been said, they did save the victims from having to give evidence at a contested trial and he was entitled to credit for that, which he received.

44. We are not impressed with the suggestion that he should have received a greater degree of discount having regard to his age at the time that he committed the offending. While it is true that some of the offences were committed before he attained his majority the point is well made by counsel for the respondent that he commenced the abuse of four of his seven victims when he was already an adult. There was no error of principle with regard to how the age factor was treated.
45. We are not therefore disposed to uphold any of the grounds of appeal that have been put forward and the appeal is dismissed.