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*(subject to editorial corrections)**

IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

THE QUEEN

v

WP

Before: Gillen LJ, Treacy J, and Keegan J

TREACY J (Delivering the Judgment of the Court)

Reporting Restrictions

[1] Given the risk of jigsaw identification arising from a familial relationship the applicant's name must not be published nor any details pertaining to the identification of the complainants.

Introduction

[2] The Single Judge, Colton J, refused the applicant leave to appeal against conviction and sentence. The applicant renewed the application for leave before the Court of Appeal which heard the application on Friday 24 March 2017. At the conclusion of the parties' oral submissions in respect of the conviction the court held the application for leave must be refused. The court then received oral submissions from the applicant in respect of the application for leave to appeal against sentence. The court did not require to hear from the prosecution and dismissed this application also. The court indicated that it would give its written reasons on Friday 31 March 2017.

Background

[3] On 1 December 2014 the applicant pleaded guilty to one count of sexual assault (Count 1), seven counts of cruelty to a person under 16 (Counts 3, 7, 17, 26, 37, 39 and 49), four counts of indecent assault (Counts 27, 29, 30 and 41) and one count of an act of gross indecency with or towards a child (Count 32). Twelve

counts were committed against the victims when they were children and one count (Count 1 – Sexual Assault) was committed against one of his children when she was an adult. Counts 2, 4-6, 8-16, 18-21, 23-25, 28, 31, 33-36, 38, 40, 42-48 and 50 were left on the books. The thirteen offences consisted of eleven specimen counts covering a course of conduct in relation to the victims, one specific count of indecent assault (Count 26) and one specific count of child cruelty (Count 37).

[4] On 1 December 2014 the applicant signed the note created by his Senior Counsel which confirmed his agreement to the plea. On 2 December 2014 the applicant attended with his solicitor and signed a "Guide to the Pleas of Guilty" document. On 7 January 2015 the applicant appeared for his plea and sentence hearing and his legal team, including Gavan Duffy QC, came off record. On 15 January 2015 a new legal team came on record with Mr Conor O'Kane of Counsel appearing for the applicant. An application to vacate the pleas was subsequently received. On 15 May 2015 His Honour Judge Fowler QC refused the application to vacate.

[5] On 29 June 2015 His Honour Judge Grant sentenced the applicant. On 20 August 2015 he stated he had given careful consideration to the terms in which he expressed the sentences imposed on 29 June 2015 in relation to a number of counts. He reviewed his sentencing remarks dated 29 June 2015 and was satisfied there were a number of errors which he went on to correct and express more clearly. The applicant was sentenced to 5 years' imprisonment under the Criminal Justice (NI) Order 1996 and one year custody and 2 years extended licence under the Criminal Justice (NI) Order 2008.

[6] The sentencing judge explained that the applicant was born on 20 January 1934 and at the time of sentencing was 81 years of age. He referred to the helpful summary in the pre-sentence report, which stated that the applicant was the father of twelve children and he had been convicted of:

> "…a litany of serious, cruel and sexual offences against 8 of his children over a protracted period. His behaviour, which was a betrayal of trust, was physically, emotionally and sexually abusive and harmful to his vulnerable children. Some of the sexual offences were committed when the child was as young as approximately six (6) years old. The physical abuse includes slapping, punching and kicking the children, use of weapons and knocking a child into a fire. In the depositions, the children refer to being emotionally humiliated and it is clear the defendant subjected the victims to serious degrading treatment. One of the victims commented that she had not been allowed to go to the hospital and that she was warned by her father not to tell anyone…

> The sexual offences include kissing the children open mouthed, touching the child's breasts and vagina and masturbating himself in the child's bed. [WP] engaged in graphic, sexualised talk in front of the children and called some of the victims whores and ugly. The deposition statements of a number of the victims display clearly that [WP's] brutal behaviour has had a significant impact on their mental health and emotional wellbeing."

The Appeal against Conviction – Vacation of Pleas

[7] The applicant contends that HHJ Fowler QC erred in not allowing the applicant to vacate his pleas.

[8] The Trial Judge has a discretion to vacate an unequivocal plea of guilty before sentence is passed. Only rarely, however, would it be appropriate for a judge to exercise this discretion where the accused has been represented by experienced counsel and, after full consultation with counsel, had already changed his plea from not guilty to guilty at an earlier stage of the proceedings [see Archbold 2017 at para 4-253 and Blackstone 2017 at para D12.98]

[9] The Court of Appeal in R v McCarthy [2015] EWCA Crim 1185 at para 63, drew attention to the principle that a defendant charged with an offence is personally responsible for entering his plea, and that, in exercising his personal responsibility, he must be free to choose whether to plead guilty or not guilty. The court cited with approval the following extracts from R v Nightingale [2013] EWCA Crim 405; [2013] 2 Cr.App.R.7 which contain some salient and helpful observations:

> "10. ….It is axiomatic in our criminal justice system that a defendant charged with an offence is personally responsible for entering his plea, and that in exercising his personal responsibility he must be free to choose whether to plead guilty or not guilty. Ample authority, from *R v Turner [1970] 2 QB 321* to *R v Goodyear [2005] 1 WLR 2532*, which amends and brings Turner up to date, underlines this immutable principle. The principle applies whether or not the court or counsel on either side think that the case against the defendant is a weak one or even if it is apparently unanswerable. In view of the conclusion that we have reached, we shall express no opinion whatever of our view of the strength of the case against the appellant.
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> 11. What the principle does not mean and cannot mean is that the defendant making his decision must be

> free from the pressure of the circumstances in which he is forced to make his choice. He has, after all, been charged with a criminal offence. There will be evidence to support the contention that he is guilty. If he is convicted, whether he has pleaded guilty or found guilty at the conclusion of a trial in which he has denied his guilt, he will face the consequences. The very fact of his conviction may have significant impact on his life and indeed for the lives of members of his family. He will be sentenced — often to a term of imprisonment. Those are all circumstances which always apply for every defendant facing a criminal charge.
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> 12. In addition to the inevitable pressure created by considerations like these, the defendant will also be advised by his lawyers about his prospects of successfully contesting the charge and the implications for the sentencing decision if the contest is unsuccessful. It is the duty of the advocate at the Crown Court or the Magistrates' Court to point out to the defendant the possible advantages in sentencing terms of tendering a guilty plea to the charge. So even if the defendant has indicated or instructed his lawyers that he intends to plead not guilty, in his own interests he is entitled to be given, and should receive, realistic, forthright advice on these and similar questions. These necessary forensic pressures add to the pressures which arise from the circumstances in which the defendant inevitably finds himself. Such forensic pressures and clear and unequivocal advice from his lawyers do not deprive the defendant of his freedom to choose whether to plead guilty or not guilty; rather, the provision of realistic advice about his prospects helps to inform his choice."

[10] To the foregoing the court observes that there is nothing unusual about an accused not making any admissions up to the point he is re-arraigned. It is not uncommon for defendants who have repeatedly denied offences to change their plea when faced with the imminence of the trial.

Was the Judge correct in law in refusing to vacate the pleas?

[11] The first issue to be considered in relation to the appeal against conviction is whether or not the judge was correct in law to refuse to exercise his discretion to vacate the guilty pleas. The legal test to be applied to his decision is clear:

> "… For an appeal against conviction to succeed where an application to vacate a plea has been refused, it must be shown that the judge misdirected himself or took account of matters which he should not have taken account of, or failed to take account of matters to which he should have had regard, or that he exercised his discretion in a wholly unreasonable manner." [see Archbold 2017 at para 7.46 and R v Sheikh [2004] 2 Cr App R 13]

[12] The summary in Valentine's Criminal Procedure in Northern Ireland is also helpful:

> "A plea of guilty may be withdrawn by leave of the court at any time before sentence, but not after sentence. The judge has a discretion to give such leave on the basis of the interests of justice, but only very sparingly and rarely in cases where the defendant had pleaded guilty with legal representation and there was no pressure or mistake as to the material elements of guilt. The judge should, before refusing, satisfy himself that there has been no pressure or mistake, and if not, the Court of Appeal can do so. If he pleaded guilty due to his reluctant acceptance of strong advice given by counsel as to his best interests, there is no ground for allowing the change of plea."

[13] In 2014 the applicant was 80 years of age and there was expert evidence very professionally and properly directed by the applicant's original legal team. This was available to them in advance of the guilty pleas. A report from Dr Miller, Consultant Psychiatrist/Consultant Psychogeriatrician, dated 30 July 2014 concluded at para 11.5.2 that the applicant had capacity to decide whether to plead guilty or not and that "given adequate time to reflect upon the charges I found [him] able to register information about the charges, retain it and reflect upon it and was capable of coming to a reasoned decision specifically in regards to this area."(his emphasis). At 11.5.3 he stated that "there is no impairment in his capacity therefore in the following areas: exercising his right to challenge jurors; instructing solicitors and counsel & following the course of the proceedings" (his emphasis). He concluded that the applicant was fit to plead and stand trial and "that there are no indicated needs for special measures in this case". He does indicate in the course of his report that the applicant suffered from "occasional gaps in memory" which was in keeping with "the effects of mild cognitive impairment". He advised that psychometric testing would quantify the said impairment more explicitly.

[14] As a result there is a report from Dr Weir, Consultant Psychologist, dated 9 October 2014 for the express purpose of carrying out psychometric testing for cognitive functioning and IQ. She concluded that in some areas of cognitive function the applicant showed cognitive decline as follows:

- Psychometric testing indicated cognitive decline in perceptual reasoning and in immediate verbal memory functions.

- Other areas of functioning such as verbal comprehension and processing speed seem to be holding up and the results are in keeping with what would be expected given the applicant's educational and employment information and therefore these areas do not seem to have declined.

- The applicant may have difficulty remembering sequences of facts when answering questions in court. This may also affect his ability to follow the course of proceedings and therefore those questioning him should use repeated checking and triggers to remind him of what has been said/asked.

[15] The court also had the benefit of a Registered Intermediary court report from Ann Maguire dated 26 November 2014. The RI confirms that her role is to provide assistance when a witness is being interviewed by police and when they are giving evidence at trial. There is no reference to legal consultations. The report concludes:

- The applicant had the ability to communicate clearly to give his evidence in court.

- The use of a registered intermediary was likely to improve the quality (completeness, coherence and accuracy) of the evidence given by the applicant.

- Ann Maguire should act as the registered intermediary for the applicant *at court* given that she has the necessary skills and knowledge to facilitate the quality of evidence given by him.

[16] The focus of the applicant's grounds supporting the contention that Judge Fowler erred in not allowing the applicant to vacate his guilty plea was were; firstly, it was suggested that a registered intermediary or other such professional should have attended the relevant consultations between the applicant and his lawyers which resulted in his change of plea. In this appeal Mr O'Kane agreed that the absence of an RI during consultations was the principal ground he relied upon; secondly, it was argued that the applicant did not understand the advice he was being given and the implications of his change of plea; in particular it is suggested that he did not understand this meant he was accepting the Crown's allegations as being true and it was suggested that he was under pressure because he had been told that if he did not plead guilty he would be convicted and receive a 14 year sentence; thirdly, in light of the fact that the applicant now has full blown dementia, this case is "practically identical" with the case of R v Graham [2016] NICC 7 and that the comments of Her Honour Judge Smyth in that case at paras 85 and 86 could be applied directly in this case ("the Graham point").

[17] In this case legal professional privilege has been waived and the applicant's new lawyers have had access to all consultation notes in relation to the consultations between the applicant and his then legal advisers including solicitor and counsel. All of this material was available to Judge Fowler when he made his decision.

[18] In opposing the application to vacate the plea the prosecution submitted that the applicant gave an unequivocal plea tendered after proper advices by his lawyers, the applicant was medically fit to make decisions on his behalf at that stage, a registered intermediary was available for the vacate hearing but was not required to assist the applicant in giving evidence and in the course of his evidence the applicant did not suggest he had any difficulties with memory.

[19] As is clear from the summary of the prosecution case the applicant also gave evidence to Judge Fowler in the course of the application.

[20] After considering the arguments and having heard the evidence of the applicant Judge Fowler QC ruled as follows:

> "Having considered the documentary evidence provided to me and after hearing the defendant give evidence, I am of the view that the defendant was properly advised, was not put under pressure, he was capable of understanding the advice given to him, to follow it and act upon it. He had no memory difficulties and having heard him give evidence I do not accept that he was confused as to the advice given, nor the consequences of his changing his plea. Accordingly, I decline to exercise my discretion to vacate the plea in the factual circumstances of this particular case."

[21] Since the decision of Judge Fowler QC for the purposes of this appeal the applicant's former legal representatives were requested to make submissions in relation to the grounds of appeal in this matter.

[22] We have now considered submissions from Miss Emma Killen, the applicant's former solicitor and Mr Duffy QC who appeared with Mr Michael Boyd for the applicant at the time he entered his guilty plea. The applicant's solicitors previously indicated that they had no further submissions to make in light of the written submissions from Ms Killen and Mr Duffy QC.

[23] We are of the view that the written submissions strongly support the decision of Judge Fowler QC. It seems to us that great care was taken in respect of the advices given to the applicant and it cannot reasonably be contended that he acted either under pressure or as a result of any mistaken representations in relation to the law. Mr Duffy points out that at no stage was it ever suggested that the applicant needed an intermediary for consultations. This very experienced criminal

practitioner states that he never had any concerns that such intervention was necessary. There were times he was of the opinion that the applicant was being deliberately obtuse but he found that once he was re-focused and required to address the issue, he was able to do so without difficulty. He formed the view, as did Dr Miller, that the applicant did not always try his hardest. Judge Fowler QC, in the course of the application to vacate, heard evidence from the applicant. At no stage was the RI required and the judge's refusal of the application to vacate was grounded partly on the judge's own observations of the applicant in the witness box.

[24] In a novel, even audacious submission, Mr O'Kane contended at para 5 of his laconic skeleton argument that a Registered Intermediary should have attended at the relevant consultations between the applicant and his lawyers "… and this failure alone is reason enough why it would be unjust for the guilty plea to stand". We unhesitatingly reject that submission in light of the material summarised above. Neither the court nor any of those appearing before it in this appeal had ever heard of a Registered Intermediary attending legal consultations. Although we did not receive any detailed argument on the point it would arguably be inappropriate for the court appointed RI to undertake such a task on behalf of one of the parties.

[25] In relation to the second ground upon which the applicant focussed it is abundantly clear from the consultation records and Mr Duffy's unchallenged account that the applicant had been taken through the facts of the case in detail on many occasions, that his plea was entirely voluntary based upon proper advice and information and WP signed the note which Senior Counsel had created which confirmed his agreement to the plea at the consultation on 1 December. On 2 December at the offices of his solicitor he signed a further document entitled "GUIDE TO THE PLEAS OF GUILTY ENTERED ON THE 1ST DECEMBER 2014". This document specifically indicates that "the pleas are entered on the facts as contained in the deposition papers save as otherwise indicated below". The document sets out in respect of each count whether it is a specimen count or not and a brief description, for example, para 3 "Count 7 Child Cruelty – specimen count re repeated beatings, including, tipping out of bed, punches being hit with a steel brush shaft".

[26] As to the third area that the applicant focussed on – "the Graham point" - this Court admitted reports from Dr Best (for the applicant) and Professor Passmore (for the Prosecution). We directed a joint meeting of these experts and an agreed Minute was put before the Court.

Agreed Minute of the Joint Meeting of Experts

[27] I set out verbatim the agreed minute:

> "Report on Mr [WP] after discussion on 20th March 2017
>
> Agreed statement from Dr Stephen Best and Professor Peter Passmore

We discussed Dr Best's report

We discussed the reports of Dr Millar, Dr East, Dr Weir, Ann Maguire and Dr Bownes

We discussed the plea process in 2014 and the court appearance in March 2015

We discussed [WP's] current situation as assessed by Dr Best 2nd March 2017

We discussed [WP's] cognitive decline in June/July 2015

Conclusions

We agreed that in 2014, at the time of his plea, that [WP] had a mild cognitive impairment

We agreed that [WP] was able to plea in 2014

We agreed that [WP] performed well in court in March 2015

We agreed that Dr East's report of 6.6.2015 indicated that there had been no significant change in [WP's] cognition

We agreed that in July 2015 [WP] experienced sudden cognitive decline. We agreed that this was most likely due to a combination of urinary issues, strong opioids and change in environment

We agreed that [WP] now has dementia which is at an advanced stage. Irrespective of whether he was guilty or not he poses a significant risk to vulnerable females.

We agreed that [WP's] current situation was not ideal in terms of management of his dementia and that a solution should be found to enable more appropriate management.

Overall we agreed that [WP] was fit to agree to the guilty plea in 2014.

..."

[28] Notwithstanding the content of the agreed minute Mr O'Kane nonetheless maintained the application for leave to appeal the conviction on the ground that the pleas should be vacated. Rather unusually, despite the minute, counsel consulted with Dr Best at the Hilltown Restaurant in Hillsborough from which emanated, on the morning of the hearing, a further report from Dr Best. This development necessitated the receipt of oral evidence from Dr Best and Professor Passmore.

There is nothing in the evidence we have heard which would justify the vacation of the plea. In cross-examination Dr Best, referring to the role that the original defence team performed, agreed that he couldn't think of anything that should have been done differently. Professor Passmore, by reference to the contemporary reports of Dr Miller, Dr Weir and Dr East was satisfied that there was nothing of concern whatsoever with reference to the applicant's capacity to plead guilty in December 2014 and moreover in June 2015 the applicant was cognitively good. His cognitive position did not within that timeframe seem to have changed. Whilst the applicant could have been sub-optimal this was not to a significant degree. In light of the medical reports in 2014 pre-dating the plea, the report from Dr East in June 2015, the joint minute of the experts and the evidence, particularly of Professor Passmore, we entertain no doubt regarding the correctness of the decision not to vacate the plea.

[29] In light of all this we do not see that it is arguable that the judge misdirected himself or took account of matters which he should not have taken account of or failed to take account of matters to which he should have had regard or that he exercised his discretion in a wholly unreasonable manner. Nor have we heard or read anything which would cause us any unease about the pleas that were entered voluntarily following robust advice.

Appeal against Sentence

[30] In his extensive sentencing remarks His Honour Judge Grant referred to the following aggravating features:

- There were eight victims.
- All the victims were young, innocent and vulnerable children (see counts 1 and 2) and there was a substantial age difference between the applicant and victims.
- There was a gross breach of position of trust.
- The offences occurred in the family home.
- Offending behaviour involved repeated offences over a protracted number of years involving a large number of children.
- The children were subjected to threats not to report which was the reason why these matters did not emerge earlier.
- The children, especially the girls, were exposed to sexualised language and conversations and behaviour of a highly disturbing nature.
- Significant suffering of the victims over the years.

- Severe emotional trauma caused to the victims.

[31] There was little by way of mitigation as the applicant initially denied the offences, then after reluctantly admitting them made an application to vacate his pleas. The judge did however take into account the fact that pleas were entered to save the victims from having to give evidence in court.

[32] In sentencing the applicant he also had regard to his age and health.

[33] He specifically assessed the issue of risk of further offending and came to the conclusion in accordance with the pre-sentence report that the applicant presented a high likelihood of re-offending and, in addition, under the 2008 Order, there was a significant risk of serious harm to others.

[34] In his final sentencing remarks of 20 August 2015 he proceeded to sentence the applicant under the Criminal Justice (Northern Ireland) Order 1996, in respect of 7 counts of cruelty to a person under 16 (counts 3, 7, 17, 26, 37, 39 and 49), 4 counts of indecent assault (counts 27, 29, 30 and 41) and one count of an act of gross indecency with or towards a child (count 32). He then sentenced the applicant under the Criminal Justice (NI) Order 2008 in respect of one count of sexual assault (count 1). Given his finding as to the risk of serious harm an extension to the licence period was imposed. The total sentence was 9 years and 3 months. He then took into account the totality of the sentence and considered the overall sentence in light of the applicant's age and poor health. The custody element of the sentence was reduced so the custodial period was 6 years (made up of 5 years imprisonment under the Criminal Justice (NI) Order 1996 and 1 year custody and 2 years extended licence under the Criminal Justice (NI) Order 2008). He explained the applicant was entitled to remission in respect of the sentences imposed under the Criminal Justice (NI) Order 1996 (but not for the sentence imposed under the Criminal Justice (NI) Order 2008). He also imposed an indeterminate SOPO, and indeterminate period of notification and registration under the Sex Offenders' Registration Scheme.

[35] The applicant says that the sentence imposed was manifestly excessive and outside the range for this type of case. Further, they argue that the learned judge erred in assessing the defendant as being "dangerous". It is also argued that he did not give full and proper consideration to the imposition of a custody probation order and should have imposed such an order in relation to all the counts where such an option was available (ie all but counts 1 and 3). A custody probation order would have also served the added purpose of negating any concerns that the authorities had about the defendant's assessment of dangerousness.

[36] In relation to the question of whether or not the sentence was outside the range for this type of offending the applicant has referred to a series of reported decisions from 1990 onwards and to the English definitive guidelines.

[37] We did not find the reference to the cited authorities particularly helpful. This condign sentence was fully justified. The offences were extremely serious and the multiple aggravated factors set out in the judgment from Judge Grant in our view justify a sentence in the range ultimately imposed.

[38] This leaves the issue of "dangerousness". Was the judge entitled to come to the view that there was "a significant risk of serious harm" in this case? In coming to the view that he did the judge expressly relied on the contents of the pre-sentence report with which he agreed. The Probation Service of Northern Ireland took the view that there was a risk of serious harm in this case and it is worth quoting the relevant section of the report.

Risk of Serious Harm

[39] PBNI assesses an offender as a significant risk of serious harm when there is a high likelihood that an offender will commit a further offence, causing serious harm (death or serious personal injury, whether physical or psychological). A multi-disciplinary risk management meeting was convened by PBNI on 11 December 2014. The meeting considered the risks posed by the applicant, balanced against safeguards. Based on the information available and considering the obvious distress and negative psychological impact on the victims in this case, the chronicity, seriousness and the level of impunity evident in the applicant's offending behaviour clearly evidences the risk of significant harm of a higher threshold than mere possibility. His continued denial of offending during interview demonstrates further evidence of his ongoing lack of concern for the victims' wellbeing and his current capacity to psychologically harm and re-victimise.

[40] As well as the factors included in the ACE assessment noted above, the decision also reflected the following concerns and risk factors particularly related to sexual recidivism:

- Continuing high level of sexual pre-occupation.
- Clear evidence of deviant behaviour towards female pre-pubescent and pubescent vulnerable victims.
- The length of time over which the applicant assaulted his children and the recent resumption of abuse evidences an engrained pattern of behaviour that outweighs the absence of offending behaviour.
- Hostile attitude towards women.
- Use of coercion.
- Negative emotionality.

- Feelings of loneliness and social rejection.

[41] To this we could add the reference in the written submissions from Ms Killen which clearly refer to inappropriate sexual comments made to her whilst she was acting on his behalf and the joint minute where Dr Best and Professor Passmore agreed that the applicant "poses a significant risk to vulnerable females".

[42] In light of the contents of the report we consider that the sentencing judge was perfectly entitled to come to the conclusion that he did in relation to the risk of serious harm.

[43] In relation to the issue as to whether or not a custody probation order was appropriate HHJ Grant dealt with this matter in the following way:

> "But having read the pre-sentence report, having read the attitude that you take to these offences, you are in absolute denial of these offences and the absence of any remorse or insight into what you have done. I am not satisfied, notwithstanding the recommendation contained in that report, that there is any benefit to be gained by imposing a period of probation. Your attitude makes it clear to me that having denied responsibility and, as I say, given the lack of insight you are unlikely to learn anything from a period of supervision and it is highly unlikely in the circumstances that you will effectively or conscientiously participate in any probation programmes I might have imposed. I do not think that you will benefit from any sort of programme in this case."

[44] We take the view that the judge was entitled to come to the view that he did.

[45] For the reasons set out above leave is refused to appeal both conviction and sentence in this matter.

Postscript

[46] During the course of the hearing the court's attention was drawn to a document prepared by the applicant's previous legal team which was advice in writing furnished to the applicant advising him how to conduct himself with the Probation Officer. The court is perturbed by the contents of this document. The prosecution shared this concern and when asked to articulate why they were concerned it was because, on one view, the contents of the document could be viewed as an attempt to inappropriately coach the applicant. Para 4 of the document has the appearance of a direct attempt to persuade a client to say the "right thing" when the advisor knows that this will go against the clients own perceptions/intentions. It seems perilously like a set of instructions on how to

manipulate the probation service and, through them, the court that will rely on the probation report. Neither the Court nor the legal representatives have ever seen such a document before and we can only hope that it does not represent any widespread practice. We deprecate the document and set it out in full below:

> "**ADVICE TO [WP] REGARDING MEETING WITH PROBATION**
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> 1. Remember that Probation are to be treated as a friend, what they will write in their report will have a very significant influence on what sentence you receive from the judge in January. A good report could result in a year or possibly two years being deducted from your sentence. Remember that the judge will be relying heavily on the contents of the Probation report when he comes to pass sentence on you.
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> 2. When you are asked about the offences to which you have pleaded guilty, it is **VERY IMPORTANT** that you express regret and remorse for what has happened to your children. It is important that you acknowledge your wrongdoing and make it clear to the Probation officer that you are sorry and that you realise the impact and effect that it has had on some of your children.
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> 3. What you must not do is give Probation the impression that you are not fully aware of what you have pleaded guilty to. You must not resort to name-calling or in any other way bad mouthing your children, particularly the girls like [X] and [Y]. That would be very foolish and would look very bad indeed in the final report prepared by Probation. This could result in the Judge increasing your sentence.
>
> 4. When discussing the offences, Probation are likely to ask you why you treated the children in the manner you did. It would be helpful if you were able to offer them some sort of explanation. It may have been due to your own upbringing. It may have been to do with your experiences in the army. Perhaps it was something else. It will not impress the judge if you are not able to offer some reason why you behaved the way you did. It is important

that you can demonstrate that you have some insight into why these things happened. It is equally important that you show enthusiasm and a willingness to accept any help which the Probation Service is able to provide you with. They may suggest that you engage in programmes with them designed to address sexual offending or violent offending. It would be deeply unimpressive if you do not come across as very keen to accept their help. Please remember that successfully persuading the judge to incorporate a Probation element into your sentence will significantly reduce any time you have to spend in prison. The judge will only consider doing this if the Probation report informs him that you are willing to engage with Probation and accept their assistance.

5. Be as open and as honest as you can with Probation and do not seek to duck responsibility for the offences that you have admitted. Tell Probation as much as possible about your personal circumstances and your background. Please also provide them with full information regarding your current state of health and any particular problems that you have.

6. Tell Probation about the impact that this case had had upon you, particularly if it has led to you feeling depressed or anxious."