The Court of Appeal (President Maxwell and Justice Kyrou) today dismissed three separate appeals against sentences imposed for incest and other sexual offences.

In the first appeal (Grantley), the Court said that since 2016 ‘there has been a dramatic change in the sentencing parameters for incest offences’. Their Honours noted that in 2016, the Court of Appeal held that the then-current sentencing practice for incest was inadequate. Sentences did not reflect either the objective gravity of the offence or the moral culpability of the offender.

‘Sentences for incest offences of mid-range seriousness must be adjusted upwards’, the Court said in 2016. In 2017, the High Court endorsed the Court of Appeal’s conclusion, describing it as ‘clearly correct’.

Each of the sentences under appeal was imposed after the Court of Appeal’s 2016 decision calling for higher sentences for incest. It was accepted on each appeal that the sentencing judge was bound by that decision.

In Grantley (a pseudonym) v The Queen, the appellant was sentenced to 6 years and 6 months’ imprisonment for a charge of incest, 5 years and 6 months’ imprisonment for a second charge of incest and 12 months’ imprisonment for a charge of indecent act with a child under 16 years. The total effective sentence was 9 years, with a non-parole period of 7 years. The offences were committed against the appellant’s stepdaughters, who were aged 12–14 at the time. The Court held that the sentences were ‘well within the range reasonably open’.

In Crawford (a pseudonym) v The Queen, the appellant was sentenced to 8 years’ imprisonment for a charge of incest, 5 years’ imprisonment for each of three charges of sexual penetration of a 16 or 17 year old child under his care and 5 years’ imprisonment for a charge of attempted rape. The total effective sentence was 15 years, with a non-parole period of 8 years.

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1 Grantley [2018] VSCA 112 [21], [24].
The victim was the appellant’s stepdaughter at the time the incest offence was committed, and she was under his care at the time the sexual penetration offences were committed. She was 18 at the time of the attempted rape. The offending began when the victim was 12 and persisted for almost 7 years, with some breaks in the offending during that period.

The incest and sexual penetration offences involved bribery and psychological coercion. The sexual penetration offences also involved aggression and the attempted rape involved violence. The Court noted that the appellant had ‘treated the complainant as his sexual object, to abuse as he saw fit’, leading to ‘lasting and devastating consequences for the complainant’. The Court rejected the appellant’s contention that the sentences imposed on him were manifestly excessive.

In Phillips (a pseudonym) v The Queen, the appellant was sentenced to 6 years and 5 years’ imprisonment, respectively, for two charges of incest, and 3 years and 30 months’ imprisonment, respectively, for two charges of indecent act with a child under 16. The victim of this offending was the appellant’s biological daughter.

The appellant was also sentenced to 6, 10 and 14 months’ imprisonment, respectively, for three additional charges of indecent act with a child under 16. The victim of that offending was a girl aged 14–15 who babysat the appellant’s daughters. The overall total effective sentence was 11 years and 5 months’ imprisonment, with a non-parole period of 9 years.

The Court found that the sentences were not manifestly excessive, noting the ‘relationship of trust’, ‘position of vulnerability’ and held that ‘considerable cumulation’ was necessary to reflect the fact the offending involved different victims and ‘sexual abuse of…different kind[s].’

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NOTE: This summary is necessarily incomplete. It is not intended as a substitute for the Court’s reasons or to be used in any later consideration of the Court’s reasons. The only authoritative pronouncement of the Court’s reasons and conclusions is that contained in the published reasons for judgment.