

Sexual Intercourse With Child Between 10 and 14 Years

Offences committed on or after 13.6.2003

s.66C(1) (NSW) Crimes Act

s 66C(1) Sexual intercourse child of or above the age of 10 years and under the age of 14 years

<u>Maximum Penalty:</u>	16 years
<u>Commenced:</u>	13.6.2003
<u>Standard Non-parole Period:</u>	7 years (offences committed on or after 29.6.2015)

For offences under s.66C committed prior to 13.6.2003 see separate tables

Note: the effect of statutory provisions relating to the application of sentencing patterns and practices:

s.25AA(1) (NSW) Crimes (Sentencing Procedure) Act applied to sentences imposed on or after 31.8.2018. It required a court to sentence an offender for a child sexual offence in accordance with the sentencing patterns and practices at the time of sentencing, not at the time of the offence.

This provision was replaced by s.21B(1) (NSW) Crimes (Sentencing Procedure) Act on 18.10.2022 which extends the requirement to all offences.

Under both provisions the relevant standard non-parole period is that which applied at the time of the offence: 25AA(2) / s.21B(5)

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
1.	Dagwell (47) [2006] NSWCCA 98	s.66C(1) 4 x s.66C(1) s.66C(1) 2 x s.61M(1) s.61M(1)	PG (20%)	18m NPP 6m 18m NPP 6m 18m NPP 6m FT 3m FT 3m <u>Total:</u> 21m NPP 9m	Crown AA 22m NPP 1y 3m 2y 10m NPP 1y 8m 3y 4m NPP 1y 11m 12m NPP 9m 1y 9m NPP 12m <u>Total:</u> 4y 3m NPP 2y 10m	nil	Met 13y complainant through chat room – discussed sexually explicit matters over phone – upon meeting engaged in consensual sexual activity – touching and sucking breasts – digital penetration – on second occasions went to offenders house – indecent touching of breasts, digital penetration, digital penetration of anus, cunnilingus, anal intercourse, fellatio
2.	LB (52) [2011] NSWCCA 220	s.66C(1) s.61M(2) Sched: 2 x s.61M(2)	PG (12%)	4y 6m NPP 3y FT 2y <u>Total:</u> 5y 6m NPP 4y	AA 3y 6m NPP 2y FT 2y <u>Total:</u> 4y 6m NPP 3y	Nil	12y male complainant stayed at offender's house overnight with step-father – touched complainant's penis on outside of pants with shoe – licked complainant's face and put tongue in mouth – placed finger in area of complainant's anus - forced complainant to perform fellatio – opportunistic and unplanned offence Long history of mental problems and alcohol dependence after traumatic experiences in Nicaragua
3.	RD [2014] NSWCCA 103	3 x s.66C(1)	PG (20%)	3y NPP 18m	Crown AA 5y 6m NPP 2y 9m	Nil	Offender was friend of 12y female complainant's older brother – asked complainant to be in a "relationship" with him – penile vaginal intercourse – complainant discovered she was pregnant Dysfunctional background
4.	Nelson (18-19) [2016] NSWCCA 130	2 x s.66C(1) 6 x s.66C(3)	PG (25%)	2y suspended 3y GBB	Crown AA <u>Aggregate:</u> 3y NPP 2y		Had sexual relationship with 3 'girlfriends' over 14 months – each complainant had moved into home of offender and family – complainants aged 13-14y – first complainant fell pregnant Suffered physical abuse as a child – significant cognitive disabilities and mental health problems

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5.	CF [2017] NSWCCA 318	s.66(1) 3 x s.61M(2)	VG	<u>Indicative</u> 5y 6m 1y – 2y <u>Aggregate</u> 8y NPP 5y	AD	Nil	Sexually assaulted 12y great niece on two separate occasions – digital penetration of complainant while sitting at table during Christmas gathering – alone in room – 6m later touched genitals of complainant while massaging leg sitting on lounge – touched breast inside sports bra – touched genitals insider underwear – element of grooming – significant breach of trust Medical conditions
6.	AM (19) [2020] NSWCCA 101	s.66C(1) s.66C(1) s.61M(2) 2 x s.61N(1) Sched: 9 offences	PG (35% on appeal) PG (25%)	<u>Indicative</u> 6y 3m NPP 3y 9m 5y 2m NPP 3y 3y NPP 1y 8m 7m <u>Aggregate</u> 8y 3m NPP 6y	AA <u>Indicative</u> 5y NPP 3y 4y 6m NPP 2y 9m 2y 3m NPP 1y 3m 6m <u>Aggregate</u> 6y 6m NPP 4y	Nil	SNPP – 7 years Sexually assaulted 10y half-sister – touched complainant's vagina – masturbated in complainant's presence, touched complainant's buttocks outside clothing. Social anxiety – remorse – low risk reoffending CCA: judge found special circumstances but minimal departure from statutory proportion – increased discount for <i>Ellis</i> disclosure
7.	Scrimshaw (A pseudonym) (59) [2021] NSWCCA 81	3 x s.66C(1) s.66C(1) Sched: 4 sexual offences	PG (25%)	5y 7y NPP 3y <u>Total:</u> 11y NPP 7y	AD	Child sexual offences	Sexual offences against daughter aged 10 – 13 between 2004 – 2006 - penile/vaginal sex, fellatio, cunnilingus, and masturbation in front of complainant. CCA: SJ erroneously applied standard non-parole period – re-sentence: whilst incarcerated for prior child sexual assault offences, met his wife with whom he fathered the complainant - cognitive deficits - below average intelligence - deprived and psychologically harmful upbringing – guarded prospects of rehabilitation.

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8.	DR (44) [2022] NSWCCA 151	3 x s.66A(2) s.66C(1) s.66C(2) s.61M(2) s.66C(4) Sched: 2 offences	PG (5%)	<u>Indicative</u> 11y 4m 11y 4m 7y 7m 1y 10.5m NPP 1y 5m 8y 6m <u>Aggregate</u> 20y 10m NPP 15y 6m	AD	Yes.	SNPP 15y (April 2005 – Nov 2015) Offences against two female complainants aged 11-15y and 8-9y – complainant 1: in relationship with older sister, digital, penile intercourse, cunnilingus, violence and threats – complainant 2: own daughter, digital intercourse. Deprived background with physical violence, sexual abuse and substance abuse - no evidence of causal link between disadvantaged upbringing and offences; disadvantage given full weight (<i>Bugmy</i>) - anti-social personality disorder and amphetamine use disorder.
9.	Krojs (19 at offence) [2022] NSWCCA 209	s.66C(1)	VG	4y NPP 2y	AD	Not stated.	(2015) offences against 12y female complainant – met through mutual friend – complainant staying at offenders' home - offender came into room where complainant sleeping and locked door – pinned complainant's arms against bed, vaginal-penile intercourse – ignored complainant asking to stop and trying to push him away.
10.	Kilby [2023] NSWCCA 247	s.66C(1) s.61M(2) s.61M(2) s.61M(2) s.61M(2) s.61N	VG	<u>Indicative:</u> 7y 12m NPP 7m 2y 4m NPP 1y 5m 2y NPP 1y 2m 2y CCO 9m <u>Aggregate:</u> 9y NPP 5y 5m	AD	Not stated	(2007-2010) sexual offences committed against friend of daughter aged 10-12y – touched complainant on vagina and breast over swimmers – during sleepover digitally penetrated complainant sleeping on floor while masturbating – stopped five times to check hallway (2016-2017) – inappropriately touched partner's niece on three separate occasions On appeal: no error in taking into account offender's position of authority at time of offending

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	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
11.	Hockley (33) [2023] NSWCCA 285	s.66C s.66EB(2A) s.91H(2) s.66EB(3) s.66EB(3)	PG (25%)	<u>Indicative</u> 2y 4m NPP 17m 24m NPP 14m 18m 2y 2m NPP 15m 2y 2m NPP 16m <u>Aggregate</u> 6y NPP 3y 7m	AD	Nil	SNPP 7y Engaged three 13y males in communication via social media Snapchat – grooming - met with and performed fellatio on complainant WH – exchanged sexual images and videos with complainants – gave complainants food, gifts and money - 1,802 files of child abuse material found on applicant’s devices. Lack of insight and remorse.
12.	MJ (40) [2023] NSWCCA 306	s.66C(1) Sched: s.66DD(a)	PG (25%)	3y NPP 2y	Crown AA 6y NPP 4y	Dishonesty, supply of prohibited drugs, possession of unauthorised firearms, assault police, domestic violence, recklessly causing injury, agg assault, agg burglary.	SNPP 7y Offence committed against partner’s 10y daughter– at service station toilet, pushed complainant onto her knees and pulled her pants down - sprayed lubricant on her anus and engaged in penile/anal intercourse - ejaculated onto complainant’s back. CCA: Manifestly inadequate sentence - SJ overlooked specific deterrence, denunciation and protection of community. <i>Bugmy</i> - early social and economic deprivation - reduced moral culpability and mental health – aboriginal background.

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	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
13.	STB (20-22) [2024] NSWCCA 36	s.66A s.66C(1) s.66C(1) Sched: 4 related offences	PG (5%)	<u>Indicative:</u> 6y 3m NPP 3y 8m 4y 5m NPP 2y 7m 5y 4m NPP 3y 2m <u>Aggregate:</u> 8y 2m NPP 4y 9m	AD	nil	SNPP 15y Sexually assaulted stepsister aged 9-12y over several years – offences not isolated incidents – involved touching of breasts and digital penetration in home of complainant – clear breach of trust On appeal: error conceded in relation to scheduled offence Offences between lower and upper mid-range – prior good character – born in Peru – moderate risk of re-offending – uncertain prospects of rehabilitation – special circumstances – no lesser sentence warranted on re-consideration

Last updated: Mar 2024