Bribery of Public Officer / Misconduct in Public Office

General

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	**George** (48) **Harris** (74) **Hilton** (43) (1987) 29 A Crim R 380	Conspiracy to bribe a public officer: *common law [no max penalty]*	VG	5y NPP 3y 6m 9y NPP 4y 6m 9y NPP 6y	AD AD AA 9y NPP 4y 6m	record of little significance nil nil	Scheme to bribe NSW Corrective Services Minister (Rex Jackson) in relation to release to licence program. Harris more seriously involved than other offenders. George dealt directly with prisoners and joined scheme at later stage. Hilton a solicitor.
2.	**Jackson** **Hakim** (1988) 33 A Crim R 413	Conspiracy to bribe a public officer: *common law [no max penalty]*	VG	7y 6m NPP 3y 9m 6y 6m NPP 3y 3m	Crown AA 10y NPP 5y Crown AD		Scheme to bribe NSW Corrective Services Minister (Rex Jackson) in relation to release to licence program.
3.	**Pangallo** (1991) 56 A Crim R 441	Bribe public officer: *common law [no max penalty]*	PG	36m PD	Crown AA FT 6m		Solicitor attempted to bribe police prosecutor to have local court matter struck out in relation to client - paid over $500.
4.	**Allen** (No.2) NSWCCA 7.7.1992	5 x Bribe public official: *common law [no max penalty]*	VG	MT 18m AT 6m	AD		Assistant Commissioner of police force gave junior officer $500 payments on five occasions – no favours requested
5.	**Webster** **Jones** NSWCCA 3.8.1992	Conspiracy to bribe public officer: *common law [no max penalty]*	VG	MT 3y AT 1y	AD	nil	W, a police officer, to receive corrupt payments - no evidence of amount or purpose. Both middle aged. W suffering bad health. Conviction for bribery of police officer against W quashed.

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	RECORD	FACTS
6.	**Taouk** (45) (1993) 65 A Crim R 387	Attempt pervert course of justice: *common law [no max penalty]*	VG	MT 4y AT 1y 4m	AD		Attempt to bribe judge to give relative lesser sentence - acted on belief he was responsible for care of relatives as head of family.
7.	**Nomchong** (51) NSWCCA 10.4.1997	Intent to pervert course of justice: *Crimes Act s.319 [14y]*	VG	36mths PD	Crown AA MT 1y 3m AT 1y 9m	nil	Senior sergeant attempted to influence constable under his supervision in relation to traffic accident - persistent attempt over several days - would receive no personal benefit. Prior good character, asthma, loss of police entitlements.
8.	**Bertoncello** (37) NSWCCA 5.11.1997	Corruptly receiving benefit: *Crimes Act s249B(1)(a) [7y]* Sched: Soliciting a benefit	PG	MT 18m AT 6m	AD	nil	Health and Building Inspector solicited $40,000 from construction company to 'fix up problems' - received two cheques for $10,000 - told construction company he was working as 'go-between' for managers. Powerful subjective case.
9.	**Duong** (1999) 109 A Crim R 60 [1999] NSWCCA 353	Attempt bribe police officer: *Police Act s.200(2)(a) [7y]*	PG	MT 2y AT 12m (concurrent to existing term)	Crown AA MT 3y AT 2y (cumulative)		Found with 2.6kg heroin in car by police – Offered officers $100,000 for release.
10.	**Papadopoulos** (27) [2000] NSWCCA 477	Bribe police officer: *Police Act s.200(2)(a) [7y]* Sched: Same offence	PG	2y NPP 9m	AD	nil	Manager of nightclub appealing against restriction placed on nightclub - handed police officer $1,000 and $500 to turn blind eye to breach of restrictions until appeal successfully completed. Strong subjective case.
11.	**Tae** (32) [2005] NSWCCA 29	Bribery of Cth public official: *Criminal Code s.141.1 [10y]* Sched: Accept fee when unregistered as migration agent	PG (46% plea and assist)	2y 2m Released to recog after 1y 4m	AD Indicated sentence would have been 2y 5m except for promise of future assistance	Nil	Korean man paid bribes to Commonwealth official to obtain or extend visa – 22 occasions over 2 months - motivated by greed Valuable assistance

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
12.	**Potter** [2005] NSWCCA 26	5 x Corruptly receiving benefit: *Crimes Act s249B(1)(a) [7y]* Sched: 3 x s.249B(1)(a)	PG (25% plea – 50% assist)	3y 3m NPP 1y 9m	AD		Chief Steward for Greyhound Racing Control Board – subverted procedures for testing of dogs for performance enhancing drugs – received considerable monetary rewards – offences committed over 7 years Delay – very good prospects of rehabilitation
13.	**O'Mally** [2005] NSWCCA 166	Solicit bribe: *Police Act s.200(1)[7y]* Sched s.200(1)	PG (30%)	2y NPP 16m	AD	Nil	Police officer attempted to obtain free quad bike from 17y driver in exchange for reduced traffic infringement – controlled delivery – on separate occasion obtained earthmoving work worth over $1,000 Prior good character
14.	**Retsos** [2006] NSWCCA 85	Aid and abet corrupt solicitation of pecuniary benefit: *Crimes Act s.249B(1) [7y]* 3 x Give false evidence *[5y]* Sched: 34 x Give false evidence	PG	2y PD $50,000 fine 12m PD $30,000 fine Total 3y PD $80,000	AA 3y PD		Sought payment of $250,000 from complainant to have development application passed by Local Council – Acted on behalf of councillor – Gave false evidence about matter to ICAC on three occasions Bankrupt – dependent children – no ability to pay fine
15.	**Cooper** (47) [2006] NSWSC 609 James J [2009] NSWCCA 57	6 x Bribery offences: *Crimes Act s.249B(2)(b) [7y]* 7 x Make false statement: *Crimes Act s.178BB [5y]*	VG	5y NPP 2y FT 3y 6m Total: 8y NPP 5y	AD	Nil	Involvement in HIH collapse – Bribed HIH chief investment officer (Howard – (2003) NSWSC [1248]) to settle disputes between HIH and offender's company on favourable terms – total payment of $119,00 - $124,000 – created and provided HIH with false documents and statements in relation to outstanding claims by offender's company on HIH – bribery and documents resulted in unjustified payment of millions of dollars to appellant's company – substantial damage to HIH Bankrupt - $2.5m paid to liquidator – prior good character – good prospects of rehabilitation

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
16.	**McCormick** [2007] NSWCCA 78	2 x Corruptly agree to receive benefit: *Crimes Act s.249B(1) [7y]* 7 x Giving false evidence: *ICAC Act s.87 [5y]*	VG	Total: 5y NPP 3y	AD		Councillor accepted bribes to promote developments – Lied to ICAC Obsessive compulsive disorder – Hardship to elderly mother
17.	**Jaturawong** [2011] NSWCCA 168	7 x Acc before the fact to misconduct in public office: *common law [no max penalty]*	PG (20%)	2y 10m NPP 1y 8m	AA 2y 3m NPP 1y 4m		Driving instructor became involved in scheme paying manager of Motor Registry for improper assistance in obtaining learner's permits and drivers licences Born in Thailand – good prospects of rehabilitation – remorse - delay
18.	**Macleod** (40) [2013] NSWCCA 108	Bribe police officer: *Police Act s.200(2)(a) [7y]* Sched: 9 x possess restricted substance	VG	9m Suspended	Crown AA 9m NPP 6m 3w	Nil	Businessman accepted offer by police detective friend – friend disclosed confidential information about police investigations into involvement of offender in drug offences
19.	**Blackstock** (40) at sentence [2013] NSWCCA 172	Wilful misconduct in public office: *common law [no max penalty]* 3 x Make false statement: *Crimes Act s.178BB [5y]* Give false evidence: *ICAC Act s.87 [5y]* Sched: 4 offences	PG (25%)	4y NPP 3y FT 1y 3m FT 6m Total: 4y 6m NPP 3y 6m	AD	Nil	Project manager at RailCorp – formed business with another person to provide contract maintenance services – used inside information and failed to disclose interest – received secret commissions - no suggestion offender involved in awarding contracts to own business – no complaint about services provided by business – offence committed over several years Delay

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
20.	**Jansen** (27) [2013] NSWCCA 301	Wilful misconduct in public office: *common law[no max penalty]* s.166 Certificate 6 offences Sched: 6 offences	PG (25%)	4y 6m NPP 2y	AD	Nil	Police officer accessed, printed out and disseminated to co-offender - sensitive police intelligence from databases – no financial gain – falsified time sheets and forged medical certificates Prior good character – suffering depressive illness and PTSD – good prospects of rehabilitation
21.	**Hughes** [2014] NSWCCA 15	Wilful misconduct in public office: *common law[no max penalty]* Wilful misconduct in public office Give false evidence to Police Integrity Commission Give false evidence to Police Integrity Commission	PG	FT 6m FT 6m FT 7m 18m NPP 9m Total: 1y 9m NPP 1y	AD	Nil	Female police officer – accessed police databases to obtain information requested by boyfriends at the time – created false report to cover improper access – lied about matters to Police Integrity Commission Suffering mental health issues

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
22.	**Lamella** (25) [2014] NSWCCA 122	Bribery of Cth public official (receiving bribe): *Criminal Code s.141.1 [10y]* Consp to import Pseudoephedrine Sched: 2 x s.142.1(1) Corrupting benefits received by Cth official	PG (50% plea and assist)	3y (concurrent) 8y Total 8y NPP 4y	Crown AD (in exercise of discretion)	One offence involving personal drug use	Customs officer involved in three importations of cold and flu tablets by couriers – total of between 4.8 and 7.35kg pure drugs imported – used position to facilitate importation – received $175,000 Drug user at time of offences - genuine remorse – rehabilitation – harsh custodial conditions
23.	**Afiouny** [2014] NSWCCA 176	2 x Bribery of Cth public official: *Criminal Code s.141.1 [10y]*	PG (reduced to 50% plea and assist on appeal)	3y 3m NPP 1y 8m (identical and concurrent sentences)	Crown AA 4y 4y Total: 5y NPP 3y 6m	Limited but previously dealt with by way of civil fine for similar offending	Approached Australian Customs Officers in Indonesia and offered money to clear shipping through Port Botany – controlled operation – 5 shipping containers with tobacco and cigarettes cleared – further two containers cleared for friend – paid total of $352,190 and $US20,000 over seven occasions – well planned – avoided $25-27M taxes and duties Assistance given
24.	**Obeid** (73 at sentence) [2016] NSWSC 1815 Beech-Jones J [2017] NSWCCA 221	Wilful misconduct in public office: *common law [no max penalty]*	VG	5y NPP 3y	AD	Nil	Member of state parliament made representations to public servant in relation to business matter with intention of securing favourable outcome for family business Prior good character – publicity – loss of financial pension – poor physical health – co-operation in conduct of trial

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
25.	**Valsamakis** (39) [2016] NSWCCA 156 Co-offender: LAMELLA	Conspiracy to import comm qty pseudoephedrine Bribery Cth public official: *Criminal Code s.141.1 [10y* Official abuse of office to gain advantage: *Criminal Code s.142.2 [5y]* Official abuse of office to gain advantage: *Criminal Code s.142.2 [5y]*	PG (50% - plea and assist)	8y 3y 18m 9m Total: 9y NPP 6y	AD	Nil	Customs officer involved in sophisticated and well-co-ordinated scheme to import pseudoephedrine – bribery offence related to importations – abuse offences unrelated - on two separate occasions abused position as Customs Officer – passed on details from declaration form of passenger carrying $160,000 for purpose of possible robbery – passed on details of Customs alert in relation to associate of co-offender and offered to destroy records Remorse – assistance – surrendered $110,400 proceeds – harsh conditions in custody – father to two children
26.	**Jousif** (48) **I Elomar** (61) **M Elomar** (63) [2017] NSWSC 1299 Adamson J	Consp to bribe foreign official: *Criminal Code s.70.2 [10y]* Consp to bribe foreign official: *Criminal Code s.70.2 [10y]* Consp to bribe foreign official: *Criminal Code s.70.2 [10y]*	PG PG PG	4y NPP 2y 4y NPP 2y $250,000 fine 4y NPP 2y $250,000 fine		Old offence Nil Nil	Payment of $US1m bribe to unknown Iraqi official to obtain commercial contracts in Iraq – conspiracy instigated by J who convinced co-offenders to seek contracts in Iraq – brothers directors of engineering firm suffering financial hardship – J aware bribe would be required from the start and received financial gain – party to conspiracy during entire period – brothers became aware of need for bribe later in arrangements – did not walk away - motivated by greed – both equally integral and closely connected to conspiracy – bribe involved deliberate and relatively sophisticated planning to circumvent ban on payments from Australia to Iraq J – refugee from Iraq – gambling addictions – good prospects of rehabilitation E brothers – prior good character - good prospects of rehabilitation – first time in custody – restrictions on future position as directors of company

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
27.	**Merhi** (40) [2019] NSWCCA 322 Co-Offender: EAKIN	Bribery Cth public official: *Criminal Code s.141.1 [10y]* Aid and abet importation of tobacco: *Customs Act s.233BABAD [10y]* Deal in proceeds of crime: *Criminal Code s.400.4(1) [20y]*	PG (25%)	 Aggregate: 5y 6m NPP 3y 3m	AA 4y 6m 4y 6m 3y 6m Aggregate: 4y 6m NPP 2y 6m	Nil	Female - retired Customs Officer agreed to assist in importation of tobacco knowing of intention to defraud of revenue - acted as liaison between syndicate and current Customs officer (co-offender) – paid co-offender $100,000 for involvement in offence – total tax loss of $6,165,192 – breach of trust - upper middle range On appeal: failure to take into account prior good character – onerous custodial conditions considered on re-sentence
28.	**Eakin** (42) [2020] NSWCCA 294 Co-Offender: MERHI	Bribery Cth public official: *Criminal Code s.141.1 [10y]* Aid and abet importation of tobacco: *Customs Act s.233BABAD [10y]*	PG (combined 35%)	3y 6m 3y 6m Aggregate: 4y NPP 2y	 Aggregate: 3y 6m NPP 2y	Nil	Customs officer used position to assist syndicate in importation of tobacco knowing of intention to defraud of revenue - receive $100,000 – lesser offender - unaware of exact amounts involved - total tax loss of $6,165,192 – serious breach of trust – importance of deterrence Initially involved believing co-offender's brother in trouble – genuine remorse – no prospects of re-offending – out of character – harsh custodial conditions On appeal: parity in view of co-offender's successful sentence appeal

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
29.	**Lee** (29-31) [2020] NSWCCA 307	Engage in conduct as Cth public official with intent to dishonestly obtain benefit: *Criminal Code s.142.2(1)(a)(iii) [5y]* Possess illegally imported species: *Environment Protection and Biodiversity Conservation Act* s.303GN(2) *[5y]* Proceeds of crime: *Criminal Code s.400.6(1) [5y]* Sched: s.303GN(2) s.142.2(1)(a)(ii)	PG (25%)	*Indicative*: 2y 12m 12m Aggregate: 3y Released after 18m	AD	Nil	Senior biodiversity officer used knowledge and position to facilitate importation of prohibited fish over 16 months – involved with second person to sell species – found in possession of four prohibited species as pets – also found in possession of $10,500 case from proceeds of sales – admitted making $40,000 from sales – abuse of trust – flagrant disregard for responsibilities – serious examples of offences – no evidence of actual threat to environment Made admissions and co-operated with investigation – some *Ellis* discount (unquantified) – low risk of re-offending Appeal: no error in application of principles – sentence not manifestly excessive

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
30.	**Macdonald** (72 at sentence – 59 at offence) **E.Obeid** (77 at sentence – 64 at offence) **M.Obeid** (52 at sentence – 39 at offence) [2021] NSWSC 1343 Fullerton J **Macdonald** [2023] NSWCCA 253 (sentence) [2023] NSWCCA 250 (conviction)	Consp to commit wilful misconduct in public office: *common law [no max penalty]* Consp to commit wilful misconduct in public office: *common law [no max penalty]* Consp to commit wilful misconduct in public office: *common law [no max penalty]*	VG VG VG	9y 6m NPP 5y 3m 7y NPP 3y 10m 5y NPP 3y	Macdonald (Sentence): AD Each: Conviction AD	Nil Similar offence committed earlier than this offence but convicted after Nil	Conspiracy over several months for Macdonald to deliberately breach duty and obligation as Minister for Mineral Resources to improperly advance private financial interest of co-offenders and their family in relation to coal exploration licence at Mt Penny – objective seriousness of 'highest order' – no evidence of motive for Macdonald – financial gain for Obeids – importance of general deterrence Macdonald – prior good character less relevant as directly linked to offending – poor physical health E.Obeid – poor physical and mental health M.Obeid – good character – declining physical and mental health – lesser offender – impact of negative media attention – sound prospects of rehabilitation and unlikely to re-offend No remorse indicated by offenders but each entitled to benefit for cooperation in trial process – delay – impact of Covid 19 taken into account in special circumstances
31.	**Macdonald** (74 at sentence – 58-59 at offence) [2023] NSWSC 270 Dhanji J [2024] NSWCCA 198	Misconduct in public office: *common law [no max penalty]* Misconduct in public office: *common law [no max penalty]*	VG	8y NPP 5y 6m 6y 6m NPP 4y 6m (concurrent) Total: (with existing sentence) 11y 3m NPP 7y	AD	Nil relevant at time of offence – sentenced in 2021 for similar offence committed at same time - see above: [2021] NSWSC 1343	As Minister for Mineral Resources granted associate consent to apply for exploration licence and exploration licence without proper regard to merit – offence took place over many months – extremely serious given senior role as minister, importance and value of resource and loss of public confidence in system of government – no specific reward or benefit but general expectation of possible favour in impending retirement Advanced age and ill health – hardship to family – hardship of custodial conditions – delay – loss of pension – co-operation at trial – good character although little weight given offences On appeal: no error

Last Updated – Nov 2024