

Sexual Intercourse With Child Under 10 Years

1.1.2009 – 28.6.2015

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

s 66A(1) Sexual intercourse child under 10 years

<u>Maximum Penalty:</u>	25 years
<u>Standard non-parole period:</u>	15 years (offences committed on or after 1.2.2003)
<u>Commenced:</u>	1.1.2009
<u>Amended:</u>	29.6.2015

For offences under s.66A(2) committed during this period see separate table

For offences committed under s.66A prior to 1.1.2009 and on or after 29.6.2015 see separate table

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)

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	RJT (38) [2012] NSWCCA 280	s.66A(1) s.66A(2)	PG (10%)	7y NPP 4y 6m 9y NPP 5y 6m <u>Total:</u> 10y NPP 6y 6m	AA 6y 3m NPP 4y 8y NPP 4y 10m <u>Total:</u> 9y NPP 5y 10m		SNPP 15y Sexually assaulted 7y daughter – rubbed vaginal area and cunnilingus Dysfunctional upbringing – otherwise employed and held in good stead by employer. On appeal discount given for assistance as complainant of abuse at hands of grandfather

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2.	KB (52) [2015] NSWCCA 220	s.66A(1) s.61M(2) 2 x s.61M(2)	PG (15%)	14y NPP 9y 6y NPP 3y 5y NPP 2y <u>Total</u> 14y 9m NPP 9y 9m	AA 11y NPP 7y 8m 4y 6m NPP 3y 3y NPP 2y <u>Total:</u> 11y 9m NPP 8y 5m		SNPP 15y Farmhand sexually abused 8y daughter of employer – touched vagina, buttocks and chest – partial penile penetration – abuse of trust – predatory nature of offences – implicit threat – element of planning Depression
3.	PS (40) [2015] NSWCCA 20	s.66A(1) Sched: 2 offences	PG (35%)	6y 6m NPP 3y 6m	AD	nil	SNPP 15y Licked vagina of 6y niece – confessed to complainant's mother Cognitive and intellectual disabilities – alcohol and drug abuse – special circumstances.
4.	RP (11-12) [2015] NSWCCA 215	2 x s.66A(1)	VG	2y 3m NPP 11m	AD	Already sentenced for similar offences against siblings	(2004-2007) sexually assaulted younger half-brother – anal intercourse – mid-range – only issue at trial was doli incapax Low intelligence
5.	ND (28 / 40 at sentence) [2016] NSWCCA 103	s.66A(1)	VG	2y 6m NPP 1y 8m	Crown AA 6y NPP 4y		SNPP 15y Digital vaginal penetration of 5y niece in 2004 – isolated opportunistic offence - below mid-range but not at lower end Good character – supportive family.

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6.	AA (15-19 / 23 at sentence) [2017] NSWCCA 84	s.66A(1) s.66A(1) s.66A(1) 2 x s.61M(2) Sched: s.66A(1) 2 x s.61M(2)	PG (20-25%)	4y NPP 2y 3m 4y 9m NPP 2y 9m 5y 2m NPP 2y 7m 1y 2m NPP 8m <u>Total:</u> 6y 7m NPP 4y	Crown AD	Nil	SNPP 15y 2008 –2012 – offences committed against two nieces aged between 5–10y – A uncle to the two complainants – touching of vagina outside of clothing - cunnilingus - fellatio – penile-vaginal of complainant aged 8y - spontaneous offences committed when other people in house. Ceased offending in 2012 – remorse - special circumstances – youth - mental health
7.	Ng (18 / 53-54 at sentence) [2017] NSWCCA 161	s.76 2 x s.76 66A(1) 66C(1) Sched 2 x s.76A	PG (25%)	<u>Indicative</u> 1y 10m 1y 6m / 1y 8m 9y NPP 6y 5y 6m NPP 3y 9m <u>Aggregate:</u> 14y NPP 10y	AA <u>Indicative</u> 2y 1y 6m / 1y 8m 7y 6m NPP 5y 8m 5y 9m NPP 4y 4m <u>Aggregate</u> 12y 7m NPP 9y 6m		SNPP 15y (1970's) licked and touched 8y female on vagina - placed complainant's hand on penis (2010-2012) sexually assaulted 9-10y daughter of de facto partner - digital penetration of vagina and anus

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
8.	CTG (42) [2017] NSWCCA 163	5 x s.66A(1) s.91G(1)(a) s.7(1) Firearms Act	PG (25%)	<u>Indicative:</u> 6y 9m NPP 4y 4y 1y 9m NPP 1y 3m <u>Aggregate:</u> 9y NPP 5y 9m	Crown AA <u>Indicative:</u> 8y 3m NPP 5y 4y 6m 2y 3m NPP 1y 6m <u>Aggregate:</u> 12y NPP 8y		SNPP 15y Offences against 3y old niece – photos taken by offender found on offender's mobile phone – photos depict offender's penis placed inside complainant's mouth
9.	GP [2017] NSWCCA 200	s.66A(1) 2 x s.61O(2)	VG	<u>Indicative</u> 10y 18m / 12m <u>Aggregate:</u> 10y NPP 7y 6m	AA <u>Indicative</u> 10y 18m / 12m <u>Aggregate:</u> 10y NPP 6y	rape – sentence accumulated to existing sentence for similar offences	SNPP 15y Sexually abused daughter of de facto partner's 7-8y niece – displayed penis – showed pornographic pictures – digital penetration Sentence adjusted on appeal to take into account accumulation to existing sentence
10.	Tikomaimaleya [2017] NSWCCA 214	s.66A(1)	VG	9y NPP 6y	Conviction AD		SNPP 15y Offender was husband of child care centre operator, who operated service from their home – sat next to 4-5y old female complainant asleep on lounge watching TV and inserted finger into her vagina

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11.	XZ (62-65) [2018] NSWCCA 76	s.66A(2) s.66A(1) s.61O(2) s.61M(2) Sched: 4 offences Possess unreg firearms Sched: 7 offences	PG (10- 15%) PG (25%)	<u>Indicative</u> 12y NPP 8y 12y NPP 8y 4y 6y NPP 4y 4y 6m NPP 3y <u>Aggregate:</u> 15y NPP 10y 6m	AD	Nil	SNPP 15y Sexually abused granddaughters of de facto partner over several years – complainants aged 6-9y – abuse included digital penetration, forced fellatio, use of vibrator, forced touching of penis and licking and touching of vagina – grooming – mid to just below mid-range Poor physical health
12.	AT (46) [2020] NSWCCA 178	s.66A(1)	VG	8y NPP 5y	AA 6y 6m NPP 4y 3m	Relatively minor - malicious damage, possess drug, stealing – last conviction in 1994.	SNPP 15y (2014) 19 month old female / baby complainant – daughter of then partner – digital penetration – isolated offence - position of trust. Aboriginal male – caring positive upbringing – stable employment - low risk reoffending – special circumstances. CCA: Manifestly excessive - no evidence offence was committed for sexual gratification, strong subjective case.

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13.	Long (A pseudonym) (14 – 17 at offence; 23 at sentence) [2021] NSWCCA 212	s.66A(1) s.66A(1) s.66C(1) 2 x s.61M(2) s.61M(2) s.61M(2)	VG	<u>Indicative:</u> 4y 3y 6m 3y 18m 16m Bond <u>Aggregate:</u> 8y 6m NPP 4y 6m	AD		SNPP 15y Juvenile offender - (2012-2016) – female complainants aged 7-8 and 3-4 placed in foster care with applicant's parents – related to applicant's family – blindfolded complainants; fellatio; touching penis. Not isolated conduct – knew actions wrong – seriousness of offences escalated – opportunistic. Good prospects rehabilitation – youth - prospect of not fully aware of consequences of actions – special circumstances: first time custody.
14.	HA (32 at offences; 42 at sentence) [2023] NSWCCA 274	2 x s.66A(1)	VG	9y NPP 5y 6m (concurrent)	AA <u>Aggregate</u> 8y 3m NPP 5y	Driving mid-range PCA	SNPP 15y (2013-2015) Female complainant aged 7-9y – sister of applicant's wife - digital-vaginal penetration for about 15 minutes and licking vagina - two counts part of a single incident – use of violence - slapped complainant and told her to shut up, punched arm and left a bruise after her leg hit his nose, threatened to kill – abuse of trust - some evidence of planning - moral culpability high. Some, but not significant, leniency on account of prior good character - health issues – no insight - prospects of rehabilitation no higher than reasonable. CCA: Sentencing judge fell into <i>De Simoni</i> error.

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