Aggravated Sexual Intercourse With Child Between 14 and 16 Years

Offences committed on or after 13.6.2003

s.66C(4) (NSW) *Crimes Act*

s 66C (4) Aggravated sexual intercourse child of or above the age of 14 years and under the age of 16 years

(3) Circumstances of aggravation:

(a) offender intentionally or recklessly inflicts actual bodily harm on victim or any other person who is present or nearby

(b) offender threatens to inflict actual bodily harm on victim or any other person who is present or nearby by means of an offensive weapon or instrument

(c) offender is in company of another person or persons

(d) victim under authority of offender

(e) victim has a serious physical disability

(f) victim has a cognitive impairment

(g) offender took advantage of victim being under influence of alcohol or a drug

(h) offender deprives victim of liberty *[added 1.1.2009]*

(i) offender breaks and enters into any dwelling-house or other building with intention of committing serious indictable offence. *[added 19.5.2009]*

Maximum Penalty:	**12 years**
Commenced:	**13.6.2003**
Standard Non-parole Period:	**5 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.	**G A T** (35 at first offence – 56 at appeal) [2007] NSWCCA 208	s.71 s.61E(1) s.61M(1) s.61O(1) s.66C(4) s.66C(2)	PG (25%)	6y NPP 4y FT 3y 5y NPP 3y FT 18m 4y 6m NPP 3y 7y 6m NPP 4y <u>Total</u>: 13y NPP 9y 6m	AA 6y NPP 4y FT 3y 3y NPP 1y 6m FT 12m 4y 6m NPP 3y 5y NPP 3y <u>Total</u>: 10y 6m NPP 7y	nil	(1985) – commenced sexually assaulting daughter aged 13y – forced fellatio, digital penetration and penile/vaginal intercourse – sexual relationship continued into complainant's 20s (2004) – sexually assaulted grandsons aged 10y and 13y – masturbation and fellatio Not isolated offences - remorse
2.	**Clarke** (41 at sentence) [2009] NSWCCA 49	2 x s.66C(2) s.66C(4)	PG (15%)	9y NPP 6y 7y NPP 4y <u>Total</u>: 11y NPP 8y	AD		Step daughter left in care after mother left relationship – sexual intercourse commenced just after complainant's thirteenth birthday – two children born of relationship – slightly above mid-range Limited insight – protective custody

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
3.	**BIP** (36 at sentence) [2011] NSWCCA 224	s.66C(2) s.66C(4) s.61O(1) s.61O(1) Sched: 4 indecency offences	PG (10%)	9y NPP 4y 6m 7y 2m NPP 5y FT 2y 3m FT 2y 8m <u>Total</u>: 14y 6m NPP 10y	AA 8y 6m NPP 4y 5y NPP 3y FT 2y FT 2y <u>Total</u>: 13y NPP 8y 6m		Sexually abused three stepdaughters over several years – entered bedroom of 13y complainant and masturbated – digitally penetrated same complainant on different occasion – forced penile penetration when complainant aged 15y - entered bedroom of second13y complainant and masturbated – indecently assaulted third stepdaughter aged 7y several years later – spontaneous offences linked to intoxication – not isolated offences Drug and alcohol abuse
4.	**LG** (22) [2012] NSWCCA 249 Co-offender: FRANKLIN	s.66C(4) s.66C(4) s.61O(1) s.61M(2) Sched: s.66C(4) s.61M(2)	PG (25%)	4y 6m NPP 2y 6m 6y NPP 3y FT 18m 4y NPP 2y <u>Total</u>: 7y 6m NPP 4y 6m	AD	nil	Female involved in sexual activity with male boyfriend and 14y complainant – touched breasts with mouth – co-offender performed cunnilingus and digital penetration on complainant – used vibrator – performed oral sex on co-offender in presence of complainant Major depressive disorder and dependent personality disorder

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
5.	**Franklin** [2013] NSWCCA 122 Co-offender: LG	s.66C(4) s.66C(4) s.61O(1) s.61M(2) Sched: s.66C(4) 2 x s.61M(1)	PG (25%)	5y NPP 3y 7y NPP 4y FT 18m 4y NPP 2y Total: 8y 6m NPP 5y 6m	AD	Nil	Offences committed with girlfriend on 14y female staying overnight under offender's care – friends with parents of complainant through social club – cunnilingus and digital penetration of complainant – touched breasts with hand and mouth – invited complainant to touch penis and lick nipples while co-offender performed fellatio – element of pre-planning – discussed sexual matters on earlier occasion – breach of trust
6.	**Do** (33) [2014] NSWCCA 189	s.66C(4)	PG (25% - plea and assist)	3y NPP 18m	AA 26m 30d NPP 13m 5d		Female offender – with male partner committed offence against 15y daughter of family friend who babysat for offender and her partner - intimidated by co-offender to participate in offence. On appeal failure to take into account offender's limited intellectual capacity – vulnerable to manipulation by co-offender.
7.	**Wakeling** (29) [2016] NSWCCA 33	s.66C(4)	PG (10%)	5y 10m 6d NPP 4y 6m	AA 5y 10m NPP 4y 1m	Nil	In de facto relationship with female co-offender – complainant 15y female babysitter – offender threatened complainant so she would participate in sexual activity – penile vaginal penetration. Special circumstances - no record - work experience - previously thought of well by others Appeal allowed to give effect to finding of special circumstances

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
8.	**Langelaar** (72) [2016] NSWCCA 143	2 x s.66C(4) s.66C(4) s.66C(4) s.61M(2)	VG	Indicative 2y 6m 3y 4y 3y NPP 2y Aggregate 5y NPP 3y	AD		Engaged in sexual activity with 15y friend of daughter living with family – digital penetration – had complainant rub penis – fellatio Little detail about sentence
9.	**Rainbow** (36) [2018] NSWCCA 42	s.66C(4) Sched: Aggravated indecent assault	PG (25%)	6y NPP 4y	AA 4y NPP 2y 6m	Violence	**SNPP 5 years** Complainant a 14y female with intellectual disability – complainant. offender and others drinking and taking drugs at offender's home – complainant lying down and felt offender having sexual intercourse with her - offender stopped when asked by complainant - unplanned and opportunistic offence - little below mid-range. Remorse – low intellect – substance abuse
10.	**DM** (17) [2018] NSWCCA 305	s.66C(4) Sched: s.66C(4)	PG (15%)	5y NPP 2y 9m	AA 4y 6m NPP 2y 5m	record including violence	One of four youths who had sexual intercourse with 15y female – complainant and offenders did not know each other prior to night of offence – complainant staying at home of co-offender because nowhere else to stay – offender had penile and digital intercourse – offences committed in company – opportunistic – no response to request about consent – no threats or coercion Refugee from Liberia – depression and personality disorder

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
11.	**GG** (45) [2018] NSWCCA 280	s.66C(4) s.66C(4) s.91H(2) produce child abuse material s.91H(2) possess child abuse material Sched: s.66EB(3)	PG (25%) (10%) (25%) (25%)	Indicative: 4y 6m 6y 3m 2y 3m 1y 6m Aggregate 7y 9m NPP 5y 9m 23d	AD	nil`	**SNPP 5 years** Offences committed on 15y step-daughter – extensive footage taken of complainant engaged in sexual activity in her bedroom saved to computer – complainant aware of some filming – purchased sex toys for complainant and assisted her in using them – on one occasion photographed complainant using sex toy – on separate occasion forced complainant to engage in painful intercourse including further use of sex toys – groomed vulnerable complainant and committed offences in her home – sexual predator
12.	**PB** (60) [2021] NSWCCA 285	4 x s.66C(4) s.66C(4) s.66C(4) s.61M(2) s.61M(2) s.61M(2) 2 x s.61M(2)	PG (15%) (5% assistance)	Indicative 3y 6m 4y 3m 4y 2y 6m NPP 16m 2y 6m NPP 18m 2y 1m NPP 16m 2y NPP 15m Aggregate 12y NPP 8y	AA Indicative: 3y 6m 4y 3m 4y 2y 6m NPP 16m 2y 6m NPP 18m 2y 1m NPP 16m 2y NPP 15m Aggregate 11y NPP 6y 9m	Nil	(2009 – 2010) – offences committed on 14y daughter – penile/vaginal intercourse, fellatio, digital penetration, touched breasts and vagina – complainant vulnerable person with mild intellectual disability. CCA: failure to take into account / make finding as to whether offenders Autism Spectrum Disorder reduced moral culpability or would make custodial sentence more onerous

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13.	**Sausa** (49-51) [2023] NSWCCA 95	s.66C(4) s.66C(4) s.61M(2) Sched: s.61M(2)	PG	Indicative: 3y 4m NPP 2y 6m 5y 3m NPP 3y 11m 2y 3m NPP 1y 8m Aggregate: 6y NPP 4y 6m	AA Indicative: 3y 4m NPP 2y 6m 5y 3m NPP 3y 11m 2y 3m NPP 1y 8m Aggregate: 6y NPP 4y	nil	**SNPP 5 years** (2016-2018) – offences committed against partner's teenage daughter – touched breasts on outside of clothing – a few days later placed hand on complainant's breast under shirt and over bra - during car ride touched complainant's genitals with fingers underneath blanket - touched complainant under her underwear, put fingers inside genitals and performed cunnilingus – intoxicated at time of offences – mid-range On appeal: erred in not failing to give effect to special circumstances
14.	**JP** (35) [2024] NSWCCA 96	s.66C(4) s.66C(4)	PG (25%)	Indicative 3y NPP 1y 9m 4y 5m NPP 2y 6m Aggregate: 5y NPP 3y 3m	AD	Not very serious. No details provided.	**SNPP 5 years** Offences against partner's daughter aged 14y – digital-vaginal and penile-vaginal penetration - each offence occurred on the one night during a single course of conduct at their home - complainant lying next to her younger sister, who was asleep. Multiple childhood trauma - mental health issues.

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15.	**DPP v Q (a pseudonym)** (24-25) [2024] NSWCCA 139	s.66C(4) s.66C(4) s.66C(4) s.66C(4) s.66C(4) s.66C(4) 2 x s.66C(3) Sched: 5 related offences	PG (25%)	Indicative: 14m NPP 7m 18m NPP 9m 3y NPP 18m 2y 9m NPP 17m 3y 3m NPP 20m 2y 6m NPP 16m 15m / 18m Aggregate: 6y 4m NPP 4y 3m	Crown AA Indicative: 14m NPP 9m 18m NPP 1y 4y NPP 2y 8m 3y 3m NPP 2y 2m 4y 3m NPP 2y 10m 3y NPP 2y 2y / 2y 6m Aggregate: 11y NPP 7y 4m	Lesser offences but breached multiple bonds and CCO by offending	**SNPP 5 years** Offences committed on 14-15y complainant over seven months – use of alcohol and drugs, emotional manipulation and element of violence – offences included fellatio, penile / vaginal intercourse without condoms, anal intercourse and use of bottle – element of degradation of complainant – aware of age and intoxication – offences escalated in seriousness after police warned offender and took out AVO Substance addiction from early age – degree of remorse and insight – prospects of rehabilitation guarded – onerous custodial conditions Crown appeal: sentence manifestly inadequate
16.	**Baldwin-Davies** (37) [2024] NSWCCA 220	3 x s.66C(4) 2 x s.66C(4) Intentionally sexual touch child: s.66DB(a) Intentionally sexual touch child: s.66DB(a) 3 x Use child to produce child abuse material: s.91G(2)(a)	VG	Indicative: 6y NPP 4y 6m 5y NPP 3y 3m 1y 6m 4y 3y Aggregate: 12y NPP 7y 9m	AA Indicative: 4y 3y 1y 6m 2y 1y 6m Aggregate: 9y 6m NPP 6y 4m	One offence of stalking / intimidation	**SNPP 5 years** Committed offences on ex-partner's cousin's 14y daughter – victim diagnosed with ASD and behavioural issues – offences committed in granny flat behind home of ex-partner over five hours in one night – digital and penile penetration – filmed acts of fellatio – indecent touching of breasts and genitals – victim directed to acknowledge dominance of offender in sexual way – abuse of trust – committed in place victim felt safe – opportunistic and predatory – age difference and victim's cognitive impairment Indigenous male - some traumatic events in childhood although not *Bugmy* – prior good character – reasonable prospects of rehabilitation – risk of re-offending moderate to low On appeal: no error in assessment of individual offences – comparative cases show sentence manifestly excessive

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
17.	**Cridland** (28) [2024] NSWCCA 243	s.66C(4) s.66C(4) s.66C(4) s.66C(4) s.66C(3) s.66C(3) s.91G s.319: Pervert course of justice	VG	Indicative: 6y NPP 3y 6y NPP 3y 10m 6y NPP 3y 9m 5y NPP 3y 3m 4y 5y 1y 6m 2y 6m Aggregate: 15y NPP 9y 9m	AA Indicative: 6y NPP 3y 6y NPP 3y 10m 6y NPP 3y 9m 5y NPP 3y 3m 4y 5y 1y 6m 2y 6m Aggregate: 11y NPP 7y 2m		**SNPP 5 years** Police officer committed offences against 14-15y female introduced to offender by school principal and mother for counselling in relation to bullying by peers – penile-vaginal and oral intercourse - offending not impulsive; some planning - exploited vulnerable young victim with mental health problems – offences committed over three months – s.91G requested complainant provide intimate photos – s.319 asked complainant's mother to give false information about offender's contact with complainant Prospects rehabilitation excellent – not remorseful. CCA: Sentence manifestly excessive – agree with indicative sentences, however, excessive accumulation
18.	**Nataucu** [2025] NSWCCA 94	s.66C(4) s.66C(4) Sched: 2 offences	PG (25%)	Indicative: 5y 3m NPP 3y 6m 5y 7m NPP 3y 8m Aggregate: 8y NPP 5y 4m	AD	Nil	**SNPP 5 years** Female complainant aged 12-14y – offender in relationship with complainant's mother - complainant viewed offender as father figure – penile-vaginal intercourse – second count caused pain and bleeding - broad mid-range objective seriousness. Remorse – insight - solid employment history - good prospects rehabilitation.

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