Maintain Unlawful Sexual Relationship
Current Offence – Max Penalty - Life
s.66EA (NSW) *Crimes Act*

s 66EA(1) Adult engages in 2 or more sexual acts with or towards a child over any period

Maximum Penalty: **life**

Commenced: **1.12.2018**

s.66EA(7) This section extends to a relationship that existed wholly or partly before the commencement of the relevant amendments, or the predecessor offence, if the acts engaged in by the accused were unlawful sexual acts during the period in which the relationship existed.

Note: the effect of recent 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.

	NAME (age if known)	OFFENCE	PLEA	TOTAL SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	**GP (a pseudonym)** [2021] NSWCCA 180	s.66EA s.61M(2)	PG (20%)	13y 6m NPP 9y 9m 19m NPP 14m Total: 14y NPP 10y 3m	AA 12y NPP 8y 7m 19m NPP 14m Total: 12y 6m NPP 9y 1m		Sexually abused step daughter aged 12-13y over 7 months – rubbed breasts and stomach and forced penile/vaginal intercourse day before marrying complainant's mother – forced fellatio in shed and multiple counts of penile/vaginal intercourse in complainant's bedroom – further acts of penile/vaginal intercourse while staying overnight with complainant away from home – told complainant to stay silent or offences would ruin mother's life – also threatened suicide – indecently assaulted second complainant on car trip to Sydney *Bugmy* factors – profound childhood deprivation – heroin baby – incarcerated parents – foster child – childhood sexual abuse – remorse – good prospects of rehabilitation On appeal: sentence erroneously based on offender ejaculating on more than one occasion At [63]-[64] – observations in *Burr* [2020] NSWCCA 282 at [160] as to factors bearing on seriousness of old offence apply to new offence.

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

	NAME (age if known)	OFFENCE	PLEA	TOTAL SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
2.	**Xerri** (48 -50 at offence) [2021] NSWCCA 268	s.66EA Contravene AVO	PG (20%)	8y NPP 4y 9m FT 4m <u>Total</u> 8y 2m NPP 4y 11m	AD	Nil relevant. Old assault matter.	(2016-2018) Female complainant aged 14 - 16 – vaginal-penile intercourse on number of occasions over 18 month period – grooming of complainant over prior two year period. Low intellectual functioning - disregard of AVO which had been put in place to protect complainant- lack of insight into offending.
3.	**Towse** (40) [2022] NSWCCA 252	s.66EA	PG (35% combined)	8y NPP 5y	AA 5y 3m NPP 3y 3m	Nil	9y old stepdaughter – five ingredient offences occurred over a week – touched vagina, vaginal-digital penetration – included Queensland offences of indecent treatment of a child; placed complainant's hand on penis - serious breach of trust. Difficult upbringing - prospects for rehabilitation reasonable. CCA: Sentence manifestly excessive - actual conduct occurred within brief period - does not bear comparison with extended period of offending / more serious offending in comparative cases - "unsophisticated person intellectually" who suffers from social anxiety, lack of insight; element of general deterrence is reduced.

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4.	**JG** [2023] NSWCCA 33	s.66EA s.66EA s.66DB(a) s.66DB(a) s.61M(2) 2 x s.61M(2) s.91H(2)	PG (25%)	Indicative: 11y 8y 9m 12m 2y 8m NPP 2y 3y NPP 2y 3m 18m Aggregate: 17y NPP 12y	AA Indicative: 9y 4y 6m Remaining indicative sentences not varied. Aggregate: 13y NPP 9y		Sexual offending against four children - each victim a member of offender's extended family - persistent sexual abuse of two children, AB and PC – AB (aged 13-15y): 10-15 acts of sexual touching of AB over 15-month period; applicant touching AB's penis or putting his hands on AB's penis - PC (aged 12-14y): 10 incidents in NSW and ACT over 39-month period; ever-increasing sexual assaults; touching complainant's penis, masturbating complainant until ejaculation, stimulating accidental urination; grooming, plying PC with alcohol; implied threat by way of casting guilt onto PC not to tell anyone. Does not accept diagnosis of paedophilic disorder - high risk of reoffending – remorse. CCA: Not open to sentencing judge to find s.66EA offending within mid-range – comparative cases discussed.
5.	**DB** (60 at sentence) [2024] NSWCCA 18	s.66EA *[25y]* s.66EA *[life]* s.91G(1)(a) s.66DC(a) s.91G(1)(a) s.91H(2) Sched: 3 offences	PG (25%)	19y NPP 14y 6m	AA 19y NPP14y 3m	Minor	(1999-2010) Sexually abused 5-16y daughter – indecent touching, digital penetration, cunnilingus and attempted penile penetration – forced complainant to undress for recording - used threats and bribery – toward high end of range (2018-2021) repeated indecent touching of 7-9y child in care – complainant had mild autism and severe anxiety – took photos of genitalia – exposed penis to second child in care and took photos of genitalia – complainant aged 4-6y with moderate to severe autism and non-verbal – photos and videos of child pornography found on computer – offences low to mid-range Dysfunctional and disruptive childhood – mental health issues – remorse On appeal: error in application of statutory ratio

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6.	**WP** (48) [2024] NSWCCA 77	s.66EA *[life]* 6 x s.59(1) 7 x s.61 s.66A 2 x s.61M(1) 9 x s.61O(1) 4 x s.66C(2) 2 x s.66D s.91H(2)	PG	18y Aggregate 28y NPP 20y	AD	Larceny, assault, contravene ADVO, destruction property,	(1995-2019) Offences committed over 18 year period on 3 own children and 3 stepchildren (boys and girl) - s.66EA offence (1995 to 2005) started on stepson KG when aged 6y; fellatio and then anal intercourse when KG aged 12y – other offences committed on KG and other children - children regularly beaten, isolated and not permitted to leave their rooms for long periods of time, went without food. Dysfunctional upbringing – Indigenous male- witnessed drug abuse and domestic violence - poor understanding of sexual abuse and of own abusive behaviour and sexual interest in children - some risk of reoffending - prospects of rehabilitation guarded. CCA: SJ fail to award 5% discount for late pleas of guilty due to error by parties as to penalty for offences – however, no lesser sentence warranted.
7.	**Massaquoi** (34 at offences) [2024] NSWCCA 125	s.66EA *[life]*	VG	16y NPP 10y	AD		(2013-2016) Female complainant aged 12-14y – offender in relationship with complainant's mother - penile-vaginal intercourse, fellatio, masturbation - level of exploitation, emotional threats. War-torn background – PTSD - anxiety and depression. CCA: No error as to findings of fact.
8.	**MK** (29 at offences) [2024] NSWCCA 127	3 x s.66EA *[life]*	VG	Aggregate 28y NPP 21y	AD	Nil	(2017-2018) Male complainants were three brothers whose mother in relationship with applicant – two complainants aged 11 – inserted complainant's penis into applicant's anus, digital-anal, penile-anal intercourse, fellatio, masturbation – use of force, emotional blackmail, caused pain – deliberate, manipulative, predatory nature of offending - above mid-range seriousness. Significant risk reoffending – mental health. CCA: No error in factual findings.
9.	**JA** (40) [2024] NSWCCA 130	s.66EA *[life]* Common assault	Not stated.	14y 6m NPP 11y 3m	AA 14y 6m NPP 10y 4m 3m		Offences committed on step-daughter, aged 8-15y. Special circumstances – PTSD. CCA: minor adjustment of NPP to give effect to special circumstances.

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10.	**Nolan** (41-45 at offences – 65 at sentence) [2024] NSWCCA 140	s.66EA *[life]*	VG	18y NPP 13y	AA 16y NPP 11y 8m	Nil relevant	(Feb 1999 – Feb 2002) Father sexually assaulted 5-8y daughter – included sexual intercourse and indecent touching – intentionally developed relationship – high degree of emotional manipulation – offences committed in victim's home – element of planning – not isolated acts – high degree of seriousness No insight or remorse On appeal: SJ erroneously treated act of rubbing vagina as digital penetration
11.	**Fisher** (54 at sentence) [2024] NSWCCA 191	s.66EA *[life]* s.66EA *[life]* s.91H(2)	VG	Indicative 6y 7y 1y Aggregate 10y NPP 7y 6m	Crown AA Indicative 11y 10y 1y Aggregate 15y NPP 11y 3m	Possess child pornography	(2015 – 2018) Uncle to two female complainants – CH aged 8-12y, vulnerable, autism spectrum disorder, touched breasts, genitals, digital penetration, unlawful sexual acts occurred routinely up to around once per week or fortnight, then once per month – MH aged 7-11y; touched breasts, genitals, genitals with his penis, cunnilingus, estimated 120-140 unlawful sexual acts. Repeated persistent offending – no remorse - lack of insight - medium risk reoffending CCA: error in assessment of objective seriousness by acting upon wrong principle with respect to unlawful sexual acts that did not form alternative counts on indictment - sentence manifestly inadequate.

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12.	**DS** (50-55 at offence; 70 at sentence) [2025] NSWCCA 53	s.66EA *[life]* s.71 2 x s.76 s.76 s.61D(1) 2 x s.66C(2) s.66C(2) s.61E(1A) s.61E(1A) s.66D 2 x s.66DB(a)	PG (5%)	Indicative 8y 7y 6m 4y 3y 6m 6y 6y 5y 3y 6m 2y 9m 3y 2y 6m NPP 1y 10m Aggregate 22y NPP 16y 6m	AD	Nil	(2004 – 2008) s.66EA offence committed against great-niece aged 11y-15y – cunnilingus, digital penetration, forcefully masturbating by rubbing penis against vagina. Other offences between 1975 - 2021 against 4 other female child complainants. Difficult background, deprivation and dysfunction – substance abuse - low risk of reoffending in light of predicted age upon release - prospects rehabilitation guarded. CCA: Failed to provide numerical discount for guilty pleas – no other sentence warranted.

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13.	**LPCM** (20-23 at offences; 41 at sentence) [2025] NSWCCA 78	s.66EA *[life]* s.66EA *[life]*	PG (10%)	Indicative 2y 8m 13m Aggregate 3y 6m NPP 2y	Crown AD	Nil	(late 2004 to mid-2005) first male 8y complainant SY - put hand on SY's penis, masturbated SY, exposed penis to SY and encouraged SY to masturbate offender (April to July 2007) second complainant 11y CM – exposed penis to CM, incited CM to touch his penis, touched CM's genitals and masturbated in CM's presence, ejaculating into CM's hands Complainants offender's cousins - objective seriousness "towards the bottom" and "at the very lowest end" of range. Difficult childhood overseas - family violence and financial strain - complex PTSD along with stressors of being in new country - many years since offending - married, career and child - frank admissions - remorse to both victims and others – special circumstances CCA: No error in assessment objective seriousness – sentence not manifestly inadequate
14.	**Crowhurst, P** (31 at offence) **Crowhurst, N** (24 at offence) [2025] NSWCCA 146	s.66EA *[life]* s.66EA *[life]*	VG	13y NPP 8y 13y NPP 8y	AD	Nil Nil	(1989) – Husband (P) and female partner / wife (N) - each commenced unlawful sexual relationship with female complainant when aged 13y – offending during 1989-1991 - complainant neighbour and babysitter – P had initial idea of bringing complainant into relationship - N role of "active facilitator". P: digital penetration, cunnilingus in company, penile/vaginal intercourse in company, penile/anal intercourse in company, indecent assault. N: digital penetration in company, cunnilingus in company, in company with PC during penile/vaginal and penile/anal intercourse, indecent assault. Each: prior good character - unlikely to reoffend - health conditions - special circumstances.
15.	**ZBJ** (41 at offence) [2025] NSWCCA 187	s.66EA *[life]*	VG	18y NPP 11y	AD	Nil	(2008-2009) Offending against daughter aged 14-16y - offending occurred on a weekly basis over 16 month period - penile-vaginal intercourse on weekly basis, cunnilingus on one occasion - above mid-range of gravity to a significant extent - manipulative and calculated. CCA: Not manifestly excessive.

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16.	**BW** (36-47 at offending – 50 at sentence) [2026] NSWCCA 104	2 x s.66C(3) s.66EA s.66DB(a) s.66DB(a) s.66DB(a) Att s.66C(2)	VG	Aggregate: 20y NPP 13y 6m	AA Indicative: 4y 13y 3y 6m 2y 6m 18m 5y Aggregate: 16y NPP 11y	Unrelated and less serious	(2010-2020) s.66C(3): sexually abused 15y goddaughter – grooming included supply of cannabis and cigarettes – mid range s.66EA: sexually abused on weekly basis 9-11y foster child – degree of violence – committed in home of complainant – above mid-range s.66DB and s.66C(2): sexually abused 12y foster child – not isolated offences – some planning – mid range All offences breach of trust Prospects of rehabilitation guarded – nil insight or remorse – degree of facilitation of justice in trial – onerous custodial conditions On appeal: re-sentence after two offences quashed on appeal

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