

## Buggery – Attempted Buggery

Victim Under 16 Years

s.79 / 80 (NSW) Crimes Act

### s 79 Buggery

**Maximum Penalty:** 14 years

**Offence repealed from section:** 8.6.1984

### s 80 Attempt to commit buggery or assaults any person with intent to commit buggery

**Maximum Penalty:** 5 years

**Offence repealed from section:** 8.6.1984

**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	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	Lebroco (31) NSWCCA 28.6.1974	s.79  s.81		3y  12m (concurrent)	AD		Assaulted 15y boy - age difference makes offence serious

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2.	<b>Clarke</b> (30)	3 x s.79	PG	15y NPP 10y	AA 15y NPP 8y	22 dishonesty convictions	Picked up 16y youth - detained complainant in van and subjected to multiple acts of buggery over several hours - pretended to be police officers - 6m later similar offence committed on 15y male - 6m later committed similar offence on 16y male - each offence involved considerable violence Homosexual partners – Clarke more dominant
	<b>Cathro</b> (30)  NSWCCA 7.2.1975	3 x s.79	PG	11y NPP 5y	AD	nil	
3.	<b>Davy</b> NSWCCA 4.4.1975	s.79	PG	9y NPP 5y 6m	AA 9y NPP 4y 6m		Assaulted 15y male - committed offences in bush and abandoned house - threatened to use knife
4.	<b>Stevens</b> (38) NSWCCA 16.7.1982	3 x s.79  Sched: 4 sexual off	PG	14y	AD	Serving sentence for buggery and indecent assault	Assaulted 13y and 14y boys – lured to secluded area and forced to participate
5.	<b>Smith</b> (45) NSWCCA 13.8.1982	s.79	PG	6y	AD	Breached parole for indecent assault – priors for similar offences	Took four boys aged 13y and 14y to home for night and committed offences
		2 x s.81  s.80		2y  2y			
6.	<b>Balmer</b> (43) NSWCCA 27.8.1982	s.79	VG	8y NPP 3y	26m	Record for similar sexual offences	Offences committed on 15y male prostitute – mutual fellatio and buggery – willing participant –acts of fellatio on two subsequent occasions - paid for activity Suffering significant intellectual and physical difficulties – tragic case
		3 x s.81		12m	3y GBB		
7.	<b>Katsoolis</b> (42 / 68) NSWCCA 28.8.1996	s.79  2 x s.76	VG	MT 6y AT 1y  6m / 2y (concurrent)	MT 3y 6m AT 18m  6m / 2y (concurrent)	Nil	(1969-1973) – assaulted niece aged 9-13y - not isolated offences – touched vagina outside underpants – forced fellatio – anal intercourse Poor health – protective custody

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8.	<b>Barrett</b> (29-37 / 54 at sentence) NSWCCA 3.3.1997	6 x s.79  2 x s.80  19 x s.81  2 x procure s.81  Sched: 44 offences	PG	MT 7y 6m AT 2y 6m  FT 2y  FT 4y  FT 12m  (concurrent)	AD		(1972-1980) - five male complainants aged 9-12y at commencement of offences – additional offences related to further 13 boys – long period of sexual misconduct over 19 years – masturbation, oral and anal intercourse – some activity photographed or videotaped - befriended boys and family and became trusted by parents Sexual abused as a teenager – voluntarily ceased offending
9.	<b>Fisk</b> (26 -41) NSWCCA 21.7.1998	8 x s.79  s.81  4 x s.61E(1A)  s.61D(1A)  3 x s.61D(1A)  4 x s.78K  Aid and abet s.78K  2 x Aid and abet s.66A	PG	MT 9y AT 3y  FT 2y  FT 2y / 3y  MT 7y 6m AT 2y 6m  FT 6y  MT 7y 6m AT 2y 6m  MT 7y 6m AT 2y 6m  FT 6y  (all concurrent)	AD		(1974-1989) – sexually abused three male complainants aged 13-19y – all complainants from dysfunctional families – offences representative of paedophilic lifestyle

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10.	<b>Reid</b> (47 at sentence) NSWCCA 24.7.1998	s.79 4 x s.81 2 x s.66A s.61M(2) 2 x s.61N  Sched: 8 sexual offences	VG  PG	FT 6y  FT 2y FT 4y MT 2y AT 4y FT 1y  <u>Total:</u> MT 12y AT 4y	AA FT 6y  FT 2y FT 4y MT 2y AT 4y FT 1y  <u>Total:</u> MT 8y AT 4y	Nil significant	Convicted of sexually abusing younger brother aged 9-14y – offender aged 19-24y – representative of conduct that commenced when brother 3y – indecent assaults consisted of placing penis between buttocks and ejaculating – no further offences after anal intercourse - pleaded guilty to further sexual offences against second brother and four other children aged 6-15y – indecent touching, fellatio, rubbing penis against buttocks and anal intercourse Sexually abused as a child
11.	<b>Barry</b> (38-41) <a href="#">[2001] NSWCCA 304</a>	2 x s.79 s.79 9 x s.81 2 x s.81A s.61	VG	8y NPP 5y FT 5y FT 6m-2y FT 1y FT 6m  (all concurrent)	AD	Minor and old record	(1979-1982) – offences committed on two brothers aged 8y and 11y at commencement of offences – befriended complainants and mother – indecent touching of penis – forced fellatio – forced anal intercourse – digital penetration of anus – forced masturbation of stranger and offender Protective custody
12.	<b>TAB</b> (65 at sentence) <a href="#">[2002] NSWCCA 274</a>	s.79 3 x s.76 s.73 s.61E(2)	VG	7y NPP 4y FT 2y FT 4y FT 9m (concurrent)	AD	Old dishonesty offence	(1977-1982) - sexual abuse of daughter aged 11y at commencement of offences – fellatio, mutual masturbation, sexual intercourse and anal intercourse – representative count Ill health

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13.	<b>MM</b> (2002) 135 A Crim R 216 <a href="#">[2002] NSWCCA 431</a>	s.79 4 x s.66C(2) 4 x s.61E(1) s.61E(1A) s.61E(2A)	VG	8y NPP 6y  8y NPP 6y  FT 3y  FT 3y  FT 2y  (concurrent)	AD		(1983-1988) - sexually assaulted son aged 9-15y – fellatio and masturbation and forced son to perform anal intercourse on offender
14.	<b>Roberts</b> (early 20s at offence – 52 at sentence) <a href="#">[2003] NSWCCA 309</a>	s.79  s.79  s.81  Sched: 12 related offences	PG (25% on appeal)	8y NPP 6y  7y NPP 4y  FT 18m  <u>Total:</u> 13y NPP 10y	AA 7y NPP 4y 6m  5y 6m NPP 2y 6m  FT 18m  <u>Total:</u> 9y 6m NPP 6y 6m	Subsequent convictions for buggery offences in early 1980s	(1972-1978) - offences committed on three males aged 7-9y Hearing disability – difficult life
15.	<b>MM</b> (2004) 145 A Crim R 148 <a href="#">[2004] NSWCCA 81</a>	2 x s.79  6 x s.81	VG	8y NPP 6y  FT 2y	AD	No significant subsequent offending	(1982-1984) – teacher at school attended by complainant – offences committed when complainant aged 14-16y – 5 offences committed in breach of teacher/pupil relationship
16.	<b>BJB</b> (17) <a href="#">[2005] NSWCCA 441</a>	2 x s.79  s.76	VG	<u>Total:</u> 5y NPP 3y	AA 5y NPP 3y  4y NPP 3y (concurrent)		(1970) – sexually abused 8y niece living with family for 3 months – rubbed chest and outside vagina – anal intercourse

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17.	<b>Stanton</b> (25-26 at offences – 61 at sentence) <a href="#">[2017] NSWCCA 250</a>	s.79 s.79 s.80 9 x s.81 Shed: 7 offences	PG (15%)	<u>Indicative</u> 10y 7m  8y 11m 2y 11m 4y 3m – 1y 3m  <u>Aggregate</u> 23y NPP 13y 9m	AD	Nil	(1980-1981) – Catholic teaching brother – sexually assaulted three male students aged 10-11y over 18m – abuse included touching, fellatio, buggery and digital penetration – each student isolated and subjected to misconduct – one student struck with strap for failure to comply Heath issues – had undertaken substantial counselling over long period
18.	<b>Denham</b> (77 at sentence) <a href="#">[2019] NSWDC 212</a> Mahoney SC DCJ	s.81 s.81 s.81 s.79	VG	<u>Indicative:</u> 12m  2y 2y 12y 6m  <u>Aggregate:</u> 13y NPP 7y 6m		Long history of sexual offences	(1981-1982) assistant priest – indecently assaulted altar boy by touching and squeezing penis and testicles – on different occasion took victim to presbytery from playground claiming he had been bad – sexual touching and anal penetration causing bleeding – on both occasions made threats that victim would go to hell and never see parents if he told anyone – level of planning, vulnerable victim and abuse of trust – substantial harm to victim - s.79 offence well above mid-range Paraphilic disorder - - high risk of sexual re-offending – no insight or remorse Partially accumulated to existing sentence
19.	<b>Peckover</b> (69 at sentence) <a href="#">[2020] NSWDC 861</a> RJ Weber SC DCJ	s.79 4 x s.81 2 x s.81 3 x s.61E(1) Sched: Four counts	PG (25%) PG (25%) VG PG (10%)	<u>Indicative:</u> 6y 9m 1y 6m – 2y 4m 1y 6m – 2y 6m 10m – 1y 4m  <u>Aggregate:</u> 9y NPP 6y		No record at time of offences – subsequent child sexual offences	(1978-1987) three male victims - volunteer care worker at residential facility – permitted to take boys out overnight – V3 entrusted into care of offender by mother – fellatio, masturbation, indecent touching and forced masturbation of offender – anal penetration of V3 - V1 and V2 aged 11-12y – vulnerable victims due to age and personal circumstances – breach of trust – s.79 offence above mid-range Prospects of rehabilitation guarded – risk of re-offending above medium range – special circumstances

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20.	<b>Beullens</b> (28-34 at offence – 77 at sentence) <a href="#">[2022] NSWDC 366</a> Bennett SC DCJ	s.79  6 x s.81	VG	<u>Indicative:</u> 7y  2y – 3y 9m  <u>Aggregate:</u> 13y NPP 8y		nil	(1973-1979) youth worker at Boys Training School – sexually assaulted four males aged 14-15y – forced masturbation, fellatio and anal penetration – position of authority – anal penetration preceded by supply of alcohol – above mid-range Poor health
21.	<b>WW</b> (17-25 at offences – 62 at sentence) <a href="#">[2023] NSWCCA 311</a>	s.79  s.81  6 x s.81  4 x s.81A  2 x s.78K  Sched: 8 similar offences	PG	<u>Indicative:</u> 6y  12m CCO  18m - 2y 6m  18m – 23m  4y / 4y 6m  <u>Aggregate:</u> 10y NPP 6y	AD	Nil	(1977-1986) Sexually abused two nephews aged 6-12y over nine years – brothers – indecent touching of penis and fellatio – forced touching of offender’s penis and fellatio – anal intercourse – gross breach of trust – many offences committed in home of grandparents and in presence of other children – not isolated offences Significant health issues – remorse – excellent prospects of rehabilitation – delay On appeal: importance of general deterrence – youth relevant only for initial offending
22.	<b>Williams</b> (31-32 at offence – 73 at sentence) <a href="#">[2024] NSWDC 9</a> Abadee DCJ	4 x s.81  s.79	VG	<u>Indicative</u> 2y – 2y 8m  4y 6m  <u>Aggregate:</u> 8y 3m NPP 5y		Old and unrelated	(1981-1982) 6-7y son of friend – masturbated in presence of victim – drove victim to isolated bush area – touched victim on thigh, touched and kissed victim’s penis and inserted penis into anus – just above mid-range – entrusted with victim’s care and vulnerable victim Age relevant in minor way -

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