

Sexual Intercourse With Child Under 10 Years

1.2.2003 – 31.12.2008

s.66A (NSW) *Crimes Act*

s 66A Sexual intercourse child under 10 years

Maximum Penalty:	25 years
Standard non-parole period:	15 years (offences committed on or after 1.2.2003)
Increased Penalty Commenced:	1.2.2003
Amended:	1.1.2009

For offences under this section committed prior to 1.2.2003 and on or after 1.1.2009 see separate tables

Note: [s.25AA \(NSW\) Crimes \(Sentencing Procedure\) Act](#) applies to sentences imposed on or after 31.8.2018:

(1) A court must 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.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	AJP (22) (2004) 150 A Crim R 575 [2004] NSWCCA 434	s.66A Sched: s.61M(2)	PG (25%)	3y NPP 18m	Crown AA 5y NPP 2y 6m	Nil	SNPP 15 years Sexually assaulted 8y niece while caring for complainant and brother – forced fellatio then rubbed erect penis against vagina – isolated offence – breach of trust – opportunistic – below mid-range objective seriousness Good prospects of rehabilitation
2.	JDB (13 / 14) (2005) 153 A Crim R 164 [2005] NSWCCA 102	4 x s.66A Sched: 2 x s.66A	PG (25%)	3y NPP 12m (Detention)	AA 3y NPP 7m 14d		SNPP 15 years Young boy sexually assaulted 8y step-sister on several occasions – anal and vaginal penetration – deliberate acts of sexual abuse – offender understood actions wrong and took steps to conceal Remorse – difficult childhood

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3.	J.T.A.C. (13) [2005] NSWCCA 345	2 x s.66A 2 x s.61M(2)	PG (25%)	2y 6m NPP 9m FT 6m (concurrent)	AD		Sexually assaulted 5y half-sister and 7y half-brother – 2 acts of fellatio – rubbed penis against complainant's bottom and vagina
4.	MLP (39) (2006) 164 A Crim R 93 [2006] NSWCCA 271 [2014] NSWCCA 183	s.66A	VG	16y NPP 12y	AA 16y NPP 11y AD	Minor	SNPP 15 years Penile intercourse with 9y daughter on camping trip – in presence of younger children – significant breach of trust – mid range objective seriousness. Protective custody – health problems – reasonable prospects of rehabilitation
5.	DBW [2007] NSWCCA 236	2 x s.66A s.61O(2) s.61O(2) s.61M(2) Sched: 6 x s.66A s.61M(2) 2 x s.61O(2)	PG	6y NPP 3y 3y NPP 18m 4y NPP 2y 4y 6m NPP 1y 9m Total: 6y 6m NPP 3y 6m	AD		SNPP 15 years Offences committed on three infant children over 5 years – offender son and daughter and neighbour's child – sexual intercourse offences involved licking daughter's vagina in bath and daughter biting appellant's penis – also masturbated in front of son and neighbour's daughter on separate occasions and rubbed penis on daughter's vagina in bath Good prospects of rehabilitation – full confession to unknown offences

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6.	PGM (2008) 187 A Crim R 152 [2008] NSWCCA 172	3 x s.66A 2 x s.61M(2) s.61M(2) Sched: 2 x Possess child pornography	VG	7y NPP 4y 3y 6m NPP 2y 4y NPP 2y <u>Total:</u> 7y NPP 4y 6m	Crown AA 9y NPP 6y 6y NPP 4y 6y 8m NPP 4y 8m <u>Total:</u> 9y 6m NPP 7y 6m	Nil significant	SNPP 15 years Offences committed on daughter of female neighbour aged 6-7y over seven months - cunnilingus and penile intercourse – breach of trust – all offences less than mid-range seriousness Prior good character
7.	RJA (30) (2008) 185 A Crim R 178 [2008] NSWCCA 137 [2014] NSWCCA 89	3 x s.66A	VG	21y NPP 16y	AA 17y NPP 13y AA 15y NPP 11y	Nil	SNPP 15 years Sexual assault on daughter aged 8 –9y over seven months – penile penetration of genitalia in mid-range objective seriousness – digital penetration less than mid-range. Prior good character. Second Appeal brought pursuant to s 78 <i>Crimes (Appeal and Review) Act 2001</i> – following judgment in <i>Muldrock</i> (2011) 244 CLR 120.]
8.	Kite [2009] NSWCCA 12	2 x s.66A	PG (25%)	8y 10m NPP 5y 6m	AA 8y NPP 5y	Minor	SNPP 15 years Sexually assaulted 6y girl sleeping in room with other children at family NYE party – did not know complainant before party – cunnilingus and digital penetration Remorse – good prospects of rehabilitation
9.	King [2009] NSWCCA 117	s. 66A Sched: 3 offences	PG (25%)	2y suspended sentence	Crown AA 7y NPP 4y 6m	BE&S, malicious damage, driving. Subject to suspended sentence at time of offence.	SNPP 15 years Broke into home to take car keys in order to steal motor vehicle – digital penetration of 4y girl sleeping in room – intoxicated at time - only slightly below mid-range in objective seriousness. Alcohol addiction.
10.	Eedens (71) [2009] NSWCCA 254	s.66A Sched: s.66A s.66C(1)	PG (25%)	12y NPP 9y	AA 8y 3m NPP 6y 2m	Sexual assault of 15y girl - assault female	SNPP 15 years Three friends of offender's young daughter playing at offender's house - forced 13y complainant to fellate offender in presence of another child - significantly below mid-range objective seriousness. Review of other authorities involving s.66A.

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11.	Allen (45) [2010] NSWCCA 47	s.66A s.86(1)	PG (25%)	14y NPP 10y 8y NPP 6y <u>Total:</u> 16y NPP 12y	AA 14y NPP 10y 6y NPP 4y <u>Total:</u> 16y NPP 12y	Child sexual offences	SNPP 15y Befriended family of 5y boy in caravan park – when boy alone in TV room took him into bush and performed fellatio – well above mid-range Alcohol abuse
12.	AWKO (33) [2010] NSWCCA 90	s.66A Breach AVO	PG (25%)	12y 87m 28d NPP 8y 3m13d FT 2m (concurrent)	AD	Nil priors	SNPP 15y Anal intercourse with 6y daughter – mid range – spontaneous offence Good prospects of rehabilitation
13.	Muldrock (30) [2010] NSWCCA 106 (2011) 244 CLR 120 [2011] HCA 39 [2012] NSWCCA 108	s.66A s.61M(1)	PG (25%)	9y NPP 96d (residential condition of parole)	AD Crown AA 9y NPP 6y 8m AA 3y NPP 1y (immediate release)	Similar prior offence	SNPP 15y 9y male complainant and mother living in flat attached to house where offender resided – took child to lake and touched backside and area around penis while swimming – upon leaving lake forced child to ground and sucked penis Significantly intellectually disabled Residential condition of parole – to reside and undertake rehabilitation for intellectually disable sex offenders

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14.	Ingham [2011] NSWCCA 88 [2014] NSWCCA 123	2 x s.66A 2 x s.66A s.66A 3 x s.66A 2 x s.61M(2) s.66B	VG	21y 4m NPP 16y 20y NPP 15y 20y NPP 15y 13y 4m NPP 10y 8y 12y NPP 9y <u>Total:</u> 22y 4m NPP 17y	AA (second appeal) 13y NPP 9y 10y NPP 7y 6m 8y NPP 6y 10y NPP 7y 6m 4y NPP 3y 8y NPP 6y <u>Total:</u> 17y NPP 13y	Prior record	SNPP 15y Sexual offences against 8y and 9y females over two days – friend of family staying with older complainant and babysitting girls – digital penetration, licking breasts, tongue in vagina, indecent assault with penis, attempted fellatio, fellatio, penile/vaginal penetration - breach of trust – all offences committed in presence of other complainant – not isolated incidents – degree of planning Second appeal - Muldrock appeal
15.	HJWG (54) at sentence [2011] NSWCCA 50	s.66A s.61M(2) 2 x s.61M(1)	PG (25%)	9y NPP 6y 1y 10m 15d NPP 9m 4y 6m NPP 2y 8m 12d <u>Total:</u> 11y NPP 8y	AD		SNPP 15y Sexually assaulted daughter aged 7-10y during access visits – placed tongue in complainant's mouth during a kiss – digital penetration of anus – indecent rubbed of bottom and vagina – encouraged complainant to touch penis and testicles – s.66A offence below mid-range seriousness

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16.	AAT (22) [2011] NSWCCA 17	3 x s.66A 2 x s.66A s.91H(2) s.474.19(1)(a) Sched: 2 x agg ind assault	PG (45% on appeal – plea and assist)	7y NPP 5y 3m 5y 6m NPP 3y 3m FT 12m FT 6m Total: 8y 6m NPP 6y 3m	AA 6y 3m NPP 4y 3m 5y 3m NPP 3y 3m FT 12m FT 6m Total: 7y 6m NPP 5y 6m		SNPP 15y Sexually assaulted 8y half-brother over several months – fellatio and forced fellatio – took photographs of complainant - level 1, 2 and 3 images on COPINE scale – found in possession of 7 images of child pornography received via e- mail – level one images Subjected to bullying at school – confusion as to sexual orientation – assistance to authorities – good gaol conduct
17.	RR (46) [2011] NSWCCA 235	s.66A	VG	12y NPP 9y	AD	minor	SNPP 15y Offender in shed at rear of premises when 5y female friend of son entered playing hide and seek – forced complainant to fellate him – moderately below mid-range – opportunistic Poor health
18.	NLR (70) [2011] NSWCCA 246	s.66A s.66A s.61M(1) Sched: s.61M(1)	PG (25%)	6y 9m NPP 4y 7y 10m 15d NPP 4y 3y NPP 1y 8m 18d Total: 8y 10m 15d NPP 5y	AD	Nil significant	SNPP 15y Step-grandfather sexually assaulted two step- granddaughters while babysitting – put hands down shirt and squeezed breasts of 10y – digitally penetrated 7y who was sitting on his lap Voluntary admissions to police – remorse – good prospects of rehabilitation
19.	Jones (20) [2012] NSWCCA 262	2 x s.66A	VG	15y NPP 11y	AA 12y NPP 8y	Nil	SNPP 15y (2008) Took 6y male to shops – stopped in secluded area, sucked penis and penetrated anus – complainant and family staying with friends of offender - opportunistic offence – no violence – one continuous act

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20.	FD (70) [2013] NSWCCA 139	s.66A s.66A 7 x s.61M(2) Sched: 4 offences	PG (35%)	5y NPP 3y 4m 4y 9m NPP 3y 2m 2y NPP 1y <u>Total</u> 8y NPP 4y	AD	Nil	SNPP 15y Grandfather sexually abused twin granddaughters aged 5-8y from 2005-2008 – rubbed vagina both under and over underpants – kissed vagina – indecent assaults at bottom of mid-range – sexual intercourse at bottom of range – gross breach of trust Genuine remorse - some degree of cognitive deficit
21.	SW (57) [2013] NSWCCA 255	s.66A	PG (15%)	7y 7m NPP 5y	AD		SNPP 15y Complainant aged 5-6y – offence took place between Jan 2007-Feb 2009 – offender was friend of complainant's family – looked after complainant often – when complainant in bath inserted rectal syringe into anus.
22.	AG [2013] NSWCCA 264	s.66A s.66B s.61M(2)	PG	9y 6m NPP 6y 6m FT 6y 6y NPP 4y 6m <u>Total:</u> 13y 6m NPP 10y 6m	AA 9y NPP 6y 5y 5y NPP 4y <u>Total:</u> 11y NPP 8y		SNPP 15y Sexually assaulted two daughters - attempted penile/vaginal intercourse with 6y developmentally delayed daughter – complainant also indicated full intercourse had taken place at one time – mid range offences - on different occasion took 4y developmentally delayed daughter into bath and rubbed penis between legs until ejaculation – just below most serious – breach of trust Intellectually disabled
23.	RM (13-17) [2015] NSWCCA 4	s.66A s.66B 2 x s.61M(2) 3 x s.61O(2)	PG (25%?)	Agg Sentence 2y suspended	Crown AA 1y 6m suspended 7m suspended 4y 6m GBB		2001-2004 - sexually abused 5-8y male neighbour over several years – some offences representative – offending escalated from fondling, masturbation, oral sex to one attempt at penile / anal intercourse Sincere remorse – excellent prospects of rehabilitation
24.	GP [2016] NSWCCA 150	2 x s.66A	VG	16y NPP 10y	AD		SNPP 15y 2006-2007 – complainant aged 3-4y at time of offences – niece – vaginal penile and digital penetration.

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25.	Egan (21) [2016] NSWCCA 285	2 x s.66A	PG (25%)	3y NPP 18y (concurrent)	Crown AA 5y 3m NPP 3y 9m <u>Total:</u> 5y 9m NPP 4y 3m		SNPP 15y 2003 – male complainant aged 9y – friend of family – performed fellatio upon complainant – forced complainant to perform fellatio upon offender – showed pornographic movie prior to offences showing limited planning – offences of short duration - limited force involved and no threats. Good character – family support – excellent prospects rehabilitation – low risk reoffending.
26.	Merkel (20 at offence – 34 at sentence) [2019] NSWCCA 212	s.66A s.66B s.61M(2)	VG	<u>Indicative</u> 14y NPP 10y 6m 10y NPP 7y 6m 4y NPP 3y <u>Aggregate:</u> 15y NPP 11y 3m	AD	child sexual offences	SNPP 15y 2004 - sexually assaulted 6y daughter of girlfriend - offender picked up complainant from her Grandmother's for sleepover with mother – stopped at offender's unit – chased complainant into bedroom, placed pillow over face and made threats – digitally penetrated complainant then attempted penile penetration – masturbated on to complainant's leg – first two offences mid0-range seriousness – third offence marginally below mid-range – breached trust and in position of authority Suffering physical and intellectual disabilities - risk of reoffending is high - prospect of rehabilitation poor
27.	BM (13 at offence – 23 at sentence) [2019] NSWCCA 223	s.66A s.61M(2) 2 x s.61M(2)	PG (25%)	<u>Indicative</u> 2y 6m 1y 3m 2 x Conditional Release Orders <u>Aggregate:</u> 2y 6m NPP 1y 3m	AA <u>Indicative</u> 14m 8m <u>Aggregate:</u> 1y 6m NPP 9m		2008 – 2009 - Offender aged 13, 14 or 15 years old – (re-sentenced on basis offender aged 13 years and 10 months) - female complainant cousin aged 4-5y - offender inserted lollypop stick inside complainant's vagina (count 1) - rubbed complainant's bare vagina with hand (count 2) – opportunistic. Causative mental condition - mental disorder, being a learning disorder and/or ADHD.

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28.	Gagen (a pseudonym) [2020] NSWCCA 47	2 x s.66A 2 x s.66A	PG	11y NPP 6y 6m 10y NPP 6y <u>Total:</u> 12y NPP 7y 4m	AA 9y NPP 5y 9y NPP 5y <u>Total:</u> 10y NPP 6y		SNPP 15y 2006-2009 – sexually abused daughters aged 7y and 5y on a regular basis in the family home over several years – fellatio and cunnilingus – breach of trust – mid-range Lengthy history of mental illness – misused drugs from very early age – physical and sexual abuse – foster care and lived on street On appeal – failed to properly consider deterrence in relation to mental illness – error in finding additional substantial harm established
29.	Haak (58 at offences; 70 at sentence) [2022] NSWCCA 28	s.66A s.61M(2)	VG	<u>Aggregate:</u> 10y NPP 7y 6m	AD	15 counts of indecent assault in 2010.	SNPP 15y 2007-2008 – female complainant 9y – church pastor / priest; lived with wife – victim and family were members of church – one evening whilst looking after complainant, penile/vaginal intercourse; rubbed breasts – some degree of planning – mid-range objective seriousness. Medium rehabilitation prospects – special circumstances – age.
30.	SB [2022] NSWCCA 164	4 x s.66A s.61M(2)	VG	<u>Indicative:</u> 10y NPP 6y 6m 3y NPP 2y <u>Aggregate:</u> 17y NPP 11y	AD	Lengthy – no sexual offences	SNPP 15y 2006-2007 – sexually abused two step daughters aged 3-6y – on one occasion forced penile-vaginal intercourse twice and oral intercourse once on first complainant – forced penile-vaginal intercourse on same complainant on separate occasion – rubbed penis against vagina of second complainant outside of clothing – not isolated occasion – abuse of trust – offences all committed in home of complainants – mid-range offending On appeal: aggregate sentence not manifestly excessive

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