

Sexual Intercourse With Child Between 14 and 16 Years

Offences committed on or after 13.6.2003

s.66C(3) (NSW) Crimes Act

s 66C(3) Sexual intercourse child of or above the age of 14 years and under the age of 16 years

Maximum Penalty: 10 years

Commenced: 13.6.2003

For offences under s.66C committed prior to 13.6.2003 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.

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
1.	Boulad (32) [2005] NSWCCA 289	19 x s.66C(3) Sched: 4 unrelated offences	PG (25%)	6y NPP 3y	AD	nil	Consensual intercourse with 15y complainant – complainant ward of state, intellectually disabled and suffering mental illness – digital and penile penetration and cunnilingus Troubled background including sexual abuse
2.	McCarthy (35) [2008] NSWCCA 320	7 x s.66C(3)	VG	4y NPP 3y	Conviction AD		Consensual intercourse with 14y complainant – digital and penile penetration - cunnilingus
3.	Kenny (33) [2010] NSWCCA 6	2 x s.66C(3) Sched: 2 x s.66C(3) s.61M(1)	PG	2y NPP 1y 3m 4y GBB	AD	nil	Met 15y complainant through chat room designed for users aged 15-18y– met at hotel and had penile / vaginal and penile / anal intercourse by consent – unreasonable belief complainant aged 16y

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4.	Mokhaiber (32) [2011] NSWCCA 10	s.66C(3) 5 x s.66C(3) s.66C(3) s.66C(3) s.61M(1) s.61M(1) Sched: 11 x s.66C(3)	PG (25%)	3y 3m NPP 2y 2m 3y NPP 2y 3y 6m NPP 2y 4m 4y NPP 2y FT 1m 9m NPP 6m <u>Total:</u> 10y NPP 6y	AA to change degree of accumulation only <u>Total:</u> 5y 6m NPP 3y 6m	nil	Picked up 15y school girl walking home from school – after several meetings engaged in sexual intercourse on multiple occasions over several months – fellatio, penile/vaginal intercourse – anal intercourse – digital intercourse On appeal fresh evidence of terminal illness of young daughter
5.	Makasa [2011] NSWCCA 212	3 x s.66C(3)	VG	2y NPP 1y	Crown AD		Sexual intercourse with female complainant aged 15y – offences committed on same day within a few hours of each other – admissions to police without which convictions may not have been obtained. Some allowance for protective custody Related judgment: [2010] NSWCCA 228 – conviction appeal only
6.	LA (29) [2013] NSWCCA 146	7 x s 66C(3)	PG (20%)	<u>Total:</u> 5y NPP 3y	AD	various including violence	Complainant 15y sister of partner – entered complainants bedroom – penile-vaginal intercourse, digital penetration and cunnilingus - on each occasion complainant approached by her sister and asked to do a favour – complainant aware this meant have sex with offender - evidence of possible wider pattern of abuse. Difficult youth – left home and lived on streets in early teens – alcohol and drug abuse.
7.	O'Brien (25) [2013] NSWCCA 197	4 x s.66C(3) Sched: Sexual assault	PG (10%)	<u>Total:</u> 3y 7m NPP 2y 2m	AD	Nil	Complainant 14 female - family friend known to complainant since she was 9y – penile vaginal intercourse, cunnilingus and digital intercourse. Good upbringing – employed – hard-working.

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8.	Taane (25) [2014] NSWCCA 330	2 x s.66C(3) Sched: 2 x s.66C(3)	PG (20%)	<u>Total:</u> 3y 4m NPP 2y 3m (Plus 4m PSC)	Crown AD	Nil significant	Consensual sexual relationship over several months with 13-14y distant cousin – charged with s.66C(3) offences and given suspended sentence – relationship continued during court proceedings for earlier offences and charged with new s.66C(3) offences after pregnancy discovered Concurrent sentence imposed for breach of suspended sentence
9.	PB (50-51) [2016] NSWCCA 258	s.66C(3) 3 x s.66C(3) s.61M(2) Sched: 14 x sexual offences s.61	PG (20%)	<u>Indicative</u> 4y 6m 4y 3y <u>Aggregate:</u> 14y NPP 8y	AD	Nil significant	Stepfather sexually abused two step-daughters aged 10-11y and 15-16y over four months – indecent touching and kissing – penile penetration and cunnilingus – threats made and one complainant slapped across face – representative counts – serious breach of trust – aware one complainant previously sexually assaulted by father
10.	Wright (42) [2017] NSWCCA 102	s.66C(3) 3 x s.66C(3) s.66EB(2) Sched: 2 x s.61M(2) s.91H(2)	PG (15%)	<u>Indicative</u> 2y 9m 2y 6m 2y <u>Aggregate:</u> 3y 3m NPP 1y 10m	Crown AD (exercise of discretion)	Lengthy record	Male friend of 14y complainant's father had 'consensual' intercourse over several months – exchanged numerous texts indicating sexual relationship – mid range Poor health – difficult custodial conditions Crown appeal dismissed on basis Crown conduct at sentence hearing reinforced sentencing judge's erroneous treatment of statistics
11.	Hordern (31) [2019] NSWCCA 210	7 x s.66C(3) s.61M(2)	VG	<u>Indicative:</u> 3y – 4y 6m 2y NPP 18m <u>Aggregate:</u> 11y NPP 7y	AD	nil prior offences – subsequent offence of larceny	2014 – offences committed against niece aged 14-15y – five counts of penile penetration – 2 counts of digital penetration – attempt to push complainant's head on to offender's penis – offences took place when complainant visiting grandparents at home where offender also lived – offences between above mid-range to below mid-range seriousness – breach of trust Suffering serious medical condition expected to reduce life span

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	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
12.	Blackett (23) [2021] NSWCCA 210	s.61M(2) s.66C(3) s.66C(3) s.66C(3) s.66C(3) s.91H s.166 Certificate Breach AVO Sched: 7 offences	PG (25%)	<u>Indicative</u> 2y 5m NPP 1y 7m 2y 7m 2y 7m 3y 3y 3m 3y 3m 2m <u>Aggregate</u> 6y NPP 3y 10m	AA <u>Indicative</u> No custodial penalty 18m 22.5m 2y 3m 3y 4.5m 18m 2m <u>Aggregate</u> 5y NPP 3y 3m	Nil	2102 – ongoing relationship with 14y complainant – fellatio, penile-vaginal, anal intercourse. Treatment for autism spectrum disorder – family support. CCA: sentences for s.61M and s.91H offences manifestly excessive.
13.	AB (25) [2022] NSWCCA 3	5 x s.66C(3) 3 x s.91G(2)(a) s.61O(2A) Sched: 3 offences	PG	s.10 dismissal of charges 2y conditional release order	Crown AD	Nil	Met 15y old male complainant on two occasions - engaged in numerous sexual acts, penile/anal intercourse - aware acting illegally - messages exchanged included photographs of complainant naked and performing sexual acts. Unchallenged medical evidence indicated causal link between childhood abuse and offending - sexually abused from age 5 – subjected to sadistic, violent, psychological abuse by mother and others - powerful subjective case. Strong rehabilitation – university student – employed.

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14.	Tomlinson (32 at offences) [2022] NSWCCA 16	s.66C(2) s.66C(3) 14 x s.66C(3) s.91G(2)(a) 5 x s.91H(2)	VG	<u>Indicative</u> 9y NPP 6y 2y 3y 12m 12m <u>Aggregate:</u> 13y NPP 8y	AD	Nil	(2012-2015) – met two female complainants through Facebook - first complainant aged 14-15y – told complainant he was 22y – penile-vaginal intercourse in hotel room on various occasions - second complainant aged 13-15y – told complainant he was 24y – purchased alcohol - penile-vaginal intercourse / cunnilingus in hotel rooms and apartment on frequent occasions – took complainant on holidays - knew complainants under 16y - not opportunistic; planning, forethought and grooming behaviour. Positive employment history - risk factors for offending unclear - no remorse or insight into offending. CCA: judge erred in applying SNPP to s.66C(2) offences when not applicable – no lesser sentence warranted in law.
15.	WS (49 at sentence) [2023] NSWCCA 52	3 x s.66C(3) 4 x s.66C(1) s.66B 3 x s.61M(2) 3 x s.61M(1) s.61O(1) s 61O(2)	VG	<u>Aggregate:</u> 21y NPP 14y 6m	AD	AOABH, assault.	(1996-2013) - 16 sexual offences over a period of 17 years – female complainants aged between 5-15y – complainants applicant's stepdaughter, niece and former partner's younger sister –penile-vaginal intercourse, fellatio, cunnilingus - applicant used position in family to commit offences.

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16.	Whiteman (15-30; 35 at sentence) [2023] NSWCCA 58	5 x s.66C(3) s.61M(2) s.61M(1) s.61L 5 x s.474.27(1) s.474.25A(1) Possess child abuse material State and Cth schedules: Numerous offences		<u>State offences aggregate:</u> 10y NPP 6y <u>Cth offences aggregate:</u> 11y NPP 7y <u>Aggregate:</u> 16y NPP 12y	AD	Nil significant	(2004-2019) multiple offending over 15-year period involving 22 female children aged 11 to 15y – fostered relationships with complainants - met through friends or community activities such as rugby league, ballroom dancing - groomed complainants - relationships pursued online - aged 30y committed sexual intercourse offences against 15y complainant following online grooming, manipulation and emotional coercion involving penile-vaginal and intercourse - USB containing child sexual abuse material. CCA: Re-sentenced due to factual error by sentencing judge in finding some offending continued after initial arrest – however, no lesser sentence warranted in law. Very high degree of criminality - offences cynically planned and calculated; scheming and lies to access sexual intercourse; protracted period of time - lack of insight into diagnosed paedophilic interest - high risk of reoffending.

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