

Sexual Intercourse With Child Between 10 and 16 Years

23.3.1986 – 12.6.2003

s.66C(1) (NSW) Crimes Act

s 66C(1) Sexual intercourse child of or above the age of 10 years and under the age of 16 years

Maximum Penalty: 8 years

Commenced: 23.3.1986

Substituted: 13.6.2003

For offences under s.66C committed after 12.6.2003 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.

	Case (age if known)	Offence	Plea	Sentence	Appeal	Priors	Facts
1.	Agnew (22) NSWCCA 6.12.1990	3 x s.66C(1)	VG	FT 8m	AA 1y GBB (served 3m)	Traffic and dishonesty	Consensual relationship with 14y - three incidents - criminality low
2.	Zappala (51) NSWCCA 5.11.1991	5 x s.66C(1) 5 x s.61E(2)	VG	4y GBB	Crown AA MT 3y AT 1y	minor	Sexually assaulted four girls aged 12 and 13y Suffering effects of motor vehicle accident including loss of eye and brain damage
3.	Williams (49 at appeal) NSWCCA 5.11.1991	7 x s.66C(1) 2 x s.61E(1A)	PG	1y 6m PD 3y GBB	Crown AD	nil	Became friend to 13y complainant's family through soccer coaching – rubbed breasts and vagina – relationship proceeded to consensual penile intercourse and fellatio over 5m Remorse- prior good character – periodic detention allowed offender to retain employment

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4.	Pace (33-35) NSWCCA 21.2.1992	Aid and abet s.66C(1) 2 x incite s.61E(2) s.61E(2)	PG	MT 12m AT 4m	AD		(1987-1989) – Female - representative of conduct over 2 years – assisted husband in sexual abuse of daughter – husband aged 78-79y – incited complainant to perform cunnilingus on offender and suck offender’s breasts – performed cunnilingus on complainant – derived sexual gratification from conduct Low intelligence – dominated by husband – caring for young child
5.	McClymont (22) NSWCCA 17.12.1992	2 x s.66C(1) Sched: 2 x indecent ass 2 x drug off	PG	MT 18m AT 6m	AD	Breached recog and bail	12y friend – warned by police as to complainant’s age after first offence – additional offences related to different girl
6.	Brady (18) NSWCCA 3.3.1994	2 x s.66C(1)	PG	MT 18m AT 18m	AA MT 12m AT 12m	Similar offences committed at same time	13y acquaintance – Crown accepted pleas in satisfaction of original charges of aggravated sexual assault – erroneously dealt with on basis of no consent
7.	Gauci (17-18) NSWCCA 10.10.1994	6 x s.66C(1)	PG	12m PD	AD	nil	Consensual relationship with 11-12y complainant
8.	Allen (38) NSWCCA 17.2.1995	s.66C(1)	PG	MT 2y AT 2y	AD		14y 8m friend – gave complainant bourbon to “facilitate” intercourse - wide age difference noted
9.	McLeod (57) NSWCCA 24.10.1995	3 x s.66C(1)	PG	MT 3y 9m AT 1y 3m	AD	prior convictions for carnal knowledge	11y complainant - multiple offence over twelve months – penile, oral and digital penetration
10.	Bakewell (28) NSWCCA 27.6.1996	s.66C(1) Supply cannabis Sched: 8 drug offences	PG	MT 5y AT 1y 8m FT 2y (concurrent)	AA MT 4y AT 1y 4m FT 2y (concurrent)	Similar offences	Sexual intercourse with 13y daughter of friends – complainant quarrelled with parents and stayed night with offender – made complainant smoke cannabis from bong – digital and penile intercourse

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11.	C E S (57) NSWCCA 26.11.1996	s.66C(1) 4 x s.66C(1) 5 x s.61M(1)	PG	MT 6y AT 2y FT 4y FT 12m – 2y (concurrent)	AA MT 4y 6m AT 3y 6m FT 4y FT 12m – 2y (concurrent)		(1994-1995) – vaginal and anal intercourse on 11y daughter of friends – regular sexual misconduct Difficult background – prospects of rehabilitation
12.	Pinder (40) NSWCCA 29.11.1996	s.66C(1) s.61M(1)	VG	MT 3y 9m AT 1y 3m FT 1y 6m (concurrent)	AD	Serious record in relation to similar offences	Professional basketball player picked up 15y female supporter in car – touched vagina and forced fellatio
13.	Priestley (19) NSWCCA 3.6.1997	3 x s.66C(1) s.66D	PG	3y GBB	Crown AD	nil	15y sister of de facto - digital penetration, cunnilingus and attempted penile penetration - all offences occurred on one occasion – complainant and offender drunk. Immediate admissions when arrested and ashamed of offences - custodial sentence would mean dismissal from job as cook in army.
14.	Strachan (24) NSWCCA 3.6.1997	6 x s.66C(1)	PG	MT 1y 8m AT 2y	AD	Minor offences	Sexually assaulted 2 female complainants - one complainant vulnerable having run away from home – penile intercourse – fellatio – forced sexual foreplay with wife – offences committed over 22 months
15.	Kanelleas (43) NSWCCA 27.10.1997	s.66C(1)	PG	MT 1y 9m AT 7m	AD	nil	13y complainant - digital penetration by father figure – followed complainant home and into bedroom - complainant required to give evidence at sentence regarding disputed facts.
16.	Tu (34) NSWCCA 20.5.1998	4 x s.66C(1)	PG	MT 1y AT 2y	AD	nil	14y female employee - relationship developed until intercourse took place at unit and motel - warned by friend about inappropriateness of behaviour. Vietnamese - remorse - naive understanding of how illegal conduct was - suffered loss of status in community
17.	Williams (1999) 104 A Crim R 260 [1999] NSWCCA 9	s.66C(1)	VG	MT 3y AT 3y	AD	nil	15y daughter of friend – complainant stayed with offender and wife for muster - while out mustering cattle offender forced penile intercourse Excellent subjective features

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18.	Raso (44) [2000] NSWCCA 22	s.66C(1)	VG	2y PD	Conviction AD		Penile/vaginal intercourse with 14y sister-in-law who had been babysitting at offender's house
19.	Kennedy (56) [2000] NSWCCA 527	5 x s.66C(1)	VG	MT 2y 8m AT 1y 8m	AD	nil	13y girl under care of friend - fellatio in back seat of car - 3 acts of penile vaginal intercourse and act of fellatio in motel room in presence of friend and before video camera - believed complainant fifteen and consenting.
20.	Percival (50) [2001] NSWCCA 429	2 x s.66C(1) Sched: 2 x Agg indecent ass	PG	6y NPP 4y	AD	Nil	Sexually assault three complainants aged 10-14y – two complainants nieces – all complainants helped at offender's work – forced fellatio and played with breasts - threats Ill health – protective custody
21.	Fuller [2001] NSWCCA 390 [2002] NSWCCA 121	s.66C(1)	VG	16m NPP 12m	Conviction AD		(1986-1997) - Penile / vaginal intercourse with 14-15y niece of de facto sleeping at aunt's place – jury convicted as alternative to count of sexual intercourse without consent
22.	SG (23) [2003] NSWCCA 220	7 x 66C(1)	VG	3y NPP 1y 6m	AA FT 12m	Prior good character	Sexual intercourse with 14y cousin – first occasion in offender's bedroom – second and third occasion in complainant's bedroom late at night – convicted as alternative to s.61J offences Prior good character – lives in New Zealand with wife – unlikely to re-offend
23.	Morgan (27) [2003] NSWCCA 284	6 x 66C(1)	PG (25%)	6y 9m NPP 4y	AA 5y 6m NPP 3y 3m	Long history – no sexual offences	Consensual sexual intercourse with 12y girl over 11 days – believed complainant aged sixteen Aboriginal with disadvantaged childhood – difficult conditions in custody
24.	Schwenke (22) [2004] NSWCCA 289	s.66C(1)	PG	3y GBB	Crown AD	Significant – no sexual offences	Consensual relationship with 13y girl, sister of a friend with whose family offender was staying with – became pregnant and had baby -complainant did not complain and resumed relationship with offender after birth - no exploitation of complainant Alcohol problems - cognitive and intellectual underdevelopment – no remorse
25.	MSS (14) [2005] NSWCCA 227	s.66C(1)	VG	18m NPP 9m	AD	Nil	Digital penetration of 14y female friend in back of car – co-offender in front – not aware no consent Risk of re-offending – no interest in counselling

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26.	KNL (19) (2005) 154 A Crim R 268 [2005] NSWCCA 260	s.66C(1)	PG (25%)	s.10 Bond	Crown AA s.11 Bond – 18m	Minor	Consensual intercourse with 12y female friend – believed complainant sixteen – grudging consent Immediate admissions – erred in imposing s.10 bond after finding not trivial offence
27.	Shannon (28) [2006] NSWCCA 39	3 x s.66C(1)	PG (15%)	5y 2m NPP 3y 8m	AD	Minor – irrelevant	Male forced sexual contact with 12y female neighbour on two occasions – forced complainant to engage in fellatio twice – penile intercourse Traumatic personal history
28.	MMK (15) (2006) 164 A Crim R 481 [2006] NSWCCA 272	s.66C(1) Sched: Agg indecent ass Common ass	PG	FT 1y	Crown AD	Nil at time	Consensual intercourse with 13y girlfriend – schedule offence committed on second complainant on different occasion – squeezed breast and slapped across face Pakistani under supervision of older brother – totality – no error in making sentence wholly concurrent with lengthy sentence for unrelated sexual offences
29.	Perez (45) [2008] NSWCCA 46	2 x s.66C(1) 2 x s.61M(1)	VG	6y NPP 5y 7y NPP 5y <u>Total:</u> 7y 5y 6m	AA 6y NPP 4y 3m 4y NPP 3y <u>Total:</u> 7y NPP 5y 3m	Little relevance	(2000-2002) – family friend of complainant aged 10-11y – rubbed erect penis against vagina and touched breasts – forced penile/vaginal intercourse Came to Australia from Uruguay as a refugee

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30.	Shaw (46) [2010] NSWCCA 23	5 x s.66C(1) 2 x s.66C(1) 3 x s.66C(1) s.66C(1) 2 x use child for pornography: s.91G Sched: 13 sexual offences	PG	3y NPP 9m 3y NPP 2y 3m FT 3y FT 18m FT 18m / FT 3y <u>Total:</u> 9y NPP 6y 9m	AA (to backdate only)	Child sexual offences	(2001-2001) Contacted 14y female over internet and arranged for sexual activity – offences committed over 7 months Partially cumulative to existing sentence in Queensland
31.	Young (a pseudonym) (14-16 at offences; 34 at sentence) [2022] NSWCCA 111	2 x s.66C(1) Attempt s.66D Sched: 3 x s.66C(1)	PG (25%)	<u>Indicative</u> 1y 10m 1y 6m <u>Aggregate</u> 3y NPP 18m	AA <u>Indicative</u> 1y 3m 1y 2m <u>Aggregate</u> 2y NPP 16m	Driving disqualified, aggravated BES, breach AVOs, assaults, intimidation, affray, possess drugs, destroy property, AOABH, armed with intent.	(2003-2004) – offences committed on niece aged 9-11y when living together in family home – fellatio, digital-vaginal penetration. <i>Bugmy</i> background - offender and complainant both suffered childhood sexual abuse and physical violence in family home - ongoing physical emotional and psychological abuse from father. CCA: Sentence manifestly excessive having regard to ways in which delay of 16-17 years resulted in lost opportunities for applicant to be dealt with as a child of good character in Children's Court and to be dealt with prior to amendments to sentencing regime in 2018; that he was 14y at offending; context in which offences committed; <i>Bugmy</i> factors; and applicant was also a victim at the time.

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