

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: 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.	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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	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
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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	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	PRIORS	FACTS
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.
14.	Brown (54) [2023] NSWCCA 330	2 x s.66C(3)	PG (25%)	<u>Indicative</u> 3y 6m 3y 9m <u>Aggregate</u> 4y 9m NPP 3y	AA <u>Indicative</u> 2y 6m 2y 9m <u>Aggregate</u> 3y 3m NPP 2y	Nil	Arranged to meet 15y old male complainant in a public park via internet chat site - met in a public toilet - engaged in sexual activity over a period of one hour – complainant performed fellatio on accused; accused performed fellatio on complainant – acts of short duration. Prospects of rehabilitation “moderate”. Strong subjective case – employed – prior good character. CCA: Sentence manifestly excessive - aggregate term high compared to similar cases - indicative sentences too high for offending within mid-range and strong subjective case with no aggravating features.

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