

# Historical Child Sex Offences

Repealed *Criminal Code* provisions

**From 1 January 2014**

**Transitional Sentencing Provisions:** This table is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period
- Transitional provisions period
- Pre-transitional provisions period

These periods are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

imp	imprisonment
susp	suspended
conc	concurrent
cum	cumulative
PG	plead guilty
agg	aggravated
burg	burglary
sex pen	sexual penetration without consent
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
dep lib	deprivation of liberty
att	attempted
EFP	eligible for parole
indec	indecent
pen	penetrate
TES	total effective sentence
CRO	conditional release order

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
8.	<p><i>Headley v The State of Western Australia</i></p> <p>[2018] WASCA 37</p> <p>Delivered 19/03/2018</p>	<p>31-46 yrs at time offending. 68 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history; including prior convictions of sexual offending against a number of boys in the 1970s and 1982.</p> <p>Medicated for various health conditions.</p>	<p>13 x Indec dealing with child U14 yrs. 6 x Incite child U14 to indecently deal. 1 x Att carnal knowledge against order of nature. 4 x Agg indecent assault. 3 x Agg sex pen. 3 x Agg indecent deals of child 13-16 yrs. 1 x Agg sex pen of child 13-16 yrs.</p> <p>The offending occurred between 1980 and 1994 and involved the sexual abuse of five boys aged between 10 and 13 yrs.</p>	<p>TES 12 yrs imp. EFP.</p> <p>The trial judge found the offending occurred over an extensive period of about 14 yrs, it was sustained, planned and premediated. The charges were representative of a course of conduct and not isolated instances of abuse.</p> <p>The trial judge found the appellant groomed the victims, giving them money, alcohol and the opportunity to drive his motor vehicle. He induced the victims to engage in sexual activity with him.</p> <p>The trial judge found the appellant pursued disadvantaged and vulnerable boys from dysfunctional families, taking advantage of</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle. Individual sentences were not challenged.</p> <p>At [18] The appellant had a prior criminal record ... Those convictions demonstrated that the appellant had a sexual attraction to young boys and a willingness to act upon it whenever the opportunity arose.</p> <p>At [42] There was little by way of mitigation, apart from his advanced age, his medical conditions and his contribution towards the efficient conduct of the trial. The appellant was not youthful or inexperienced for sentencing purposes. ...</p> <p>At [43] ... A custodial term [of 12 yrs] was required in order properly to reflect the very serious nature of the appellant's offending as a whole, and to give effect to</p>

				<p>their unfortunate circumstances to have regular contact with them.</p> <p>The trial judge found no evidence imp would ‘greatly adversely affect’ the appellant’s health.</p> <p>Unremorseful; no victim empathy; no acceptance of responsibility for his criminal conduct.</p>	<p>the sentencing considerations of appropriate punishment and general deterrence, having regard to the need to protect vulnerable children.</p> <p>At [44] ... Despite the appellant’s advanced age and medical conditions, and notwithstanding it is possible that he may die in prison or that upon release he may not have any prospect of a useful life, a more lenient TES was not appropriate.</p>
7.	<p><i>Mills v The State of Western Australia [No 2]</i></p> <p>[2017] WASCA 52</p> <p>Delivered 22/03/2017</p>	<p><u>Mills</u> 76 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Migrated from NZ with Coombs; lived with Coombs; assisted Coombs with his car detailing business at time offending.</p> <p>Led a useful life.</p> <p>Health problems.</p> <p><u>Coombs</u></p>	<p><u>Mills</u> Cts 1-5: Indec dealing with child U14 yrs. Ct 12: Commit act of gross indecency.</p> <p><u>Coombs</u> Cts 6 &amp; 7: Indec dealing with child U14 yrs. Cts 8 &amp; 17: Permit child to have carnal knowledge of him. Cts 10 &amp; 11: Carnal knowledge against the order of nature. Cts 14 &amp; 15: Commit act of gross indecency. Ct 16: Procured child to commit act of gross indecency with him.</p> <p>The victims BM and SM were vulnerable, having come from a dysfunctional family.</p> <p>Coombs was SM’s employer. BM was 5 yrs</p>	<p><u>Mills</u></p> <p>Ct 1: 2 yrs imp (conc). Ct 2: 16 mths imp (conc). Ct 3: 2 yrs imp (conc). Ct 4: 18 mths imp (conc). Ct 5: 3 yrs 6 mths imp. Ct 12: 18 mths imp (cum).</p> <p>TES 5 yrs imp.</p> <p><u>Coombs</u></p> <p>Ct 6: 3 yrs 6 mths imp (conc).</p>	<p>Dismissed.</p> <p>Appeal concerned length of individual sentence for ct 12 (Mills), and totality.</p> <p>At [39] ... 25 yrs or more had passed since these offences were committed and ...since about 1991, Mr Coombs has not committed any further offences... that is relevant to the risk of reoffending. Nevertheless, it could not be said that it demonstrated that Mr Coombs was rehabilitated beyond the limited extent</p>

		<p>75 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Migrated from NZ with Mills; lived with Mills.</p> <p>Owned a car detailing business at time offending; steady record of employment.</p> <p>Medical conditions.</p>	<p>younger than SM. BM regularly stayed at the appellants' home and was given treats. The appellants groomed the boys for increasingly serious sexual conduct.</p> <p><u>Mills</u></p> <p>Mills made the first move on the victims.</p> <p>BM was aged between 9 and 11. The charges Mills was convicted of were representative of a course of conduct.</p> <p>On numerous occasions Mills washed BM's genitals (cts 1 and 3). On another occasion, Mills exposed his erect penis to BM and said "See what you do to me" (ct 2). On another occasion he also placed BM's hands on his penis (Ct 4) and then made BM give him oral sex for a minute or so (ct 5).</p> <p>Mills rewarded BM by buying him a bicycle, surfboard and taking him to the beach.</p> <p>Mills placed his hand on SM's groin (ct 12).</p> <p><u>Coombs</u></p> <p>When SM worked for Coombs, Coombs grabbed SM and sucked his penis. SM resisted, but Coombs continued until he ejaculated (ct 14). After that, Coombs went into SM's bedroom on many occasions and sucked SM's penis, one of which was ct 15. Coombs also made SM suck his penis until he ejaculated, one occasion was ct 16.</p>	<p>Ct 7: 3 yrs 6 mths imp (conc).  Ct 8: 5 yrs imp (conc).  Ct 10: 5 yrs imp.  Ct 11: 5 yrs imp (conc).  Ct 14: 2 yrs 6 mths imp (conc).  Ct 15: 2 yrs 6 mths imp (conc).  Ct 16: 2 yrs 6 mths imp (conc).  Ct 17: 4 yrs imp (reduced from 5 yrs for totality reasons) (cum).</p> <p>TES 9 yrs imp.</p> <p><u>Mills</u></p> <p>Low risk of reoffending.</p> <p>There had been some rehabilitation given no further offences since this offending took place.</p> <p>Health problems could be managed in custody.</p> <p>No remorse.</p>	<p>referred to by her Honour. He continued to deny the offences and had not engaged in any programme to deal with his sexual interest in young boys.</p> <p>At [43] ...Mr Coombs' age and health could only provide quite limited mitigation of his serious offending.</p> <p>At [54] Mr Coombs' offending had many serious elements... The offending involved a substantial breach of trust. Mr Coombs was SM's employer. The victims' mother trusted Mr Coombs, as well as Mr Mills, in permitting the boys to stay with them... While no violence was involved, Mr Coombs successfully normalised the sexual conduct so as to make the boys comply voluntarily... The victim impact statements eloquently express the devastating and enduring effects of Mr Coombs' offending.</p>
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			<p>When BM was aged 12 or 13, Coombs performed oral sex on him (cts 6 and 7).</p> <p>Coombs told BM to give him anal sex (ct 8). After that occurred, Coombs sat on top of BM and ejaculated on him.</p> <p>After BM asked Coombs for money to go to a Skyshow, Coombs penetrated BM's anus with his penis and ejaculated (Ct 10). That was excruciatingly painful for BM, who, afterwards, noticed blood when going to the toilet.</p> <p>Six months later, Coombs again penetrated BM's anus, but stopped when BM screamed in pain (ct 11).</p>	<p><u>Coombs</u></p> <p>Low risk of reoffending.</p> <p>There had been some rehabilitation given no further offences since this offending took place.</p> <p>Medical conditions could be managed in custody.</p> <p>No remorse.</p>	<p>At [65] Mr Mills took advantage of the vulnerability of a young boy from a dysfunctional home. He breached BM's mother's trust in letting BM stay overnight. He groomed BM with outings and treats. He offended against BM on a number of occasions, including by making BM suck his penis. His offending has had devastating consequences for BM.</p> <p>At [68] To the extent that the sentence for ct 12 is high, the severity of the sentence must be seen in light of the TES imposed for Mr Mills' offending as a whole... We are not persuaded that this sentence, or any other sentence for an individual count, was manifestly excessive.</p>
6.	<p><i>NHT v The State of Western Australia</i></p> <p>[2016] WASCA 167</p>	<p>68 yrs at time sentencing. 56 yrs at time offending for ct 8.</p> <p>Convicted after trial.</p> <p>No prior relevant convictions.</p>	<p>Cts 1-3 &amp; 5: Indec dealing with child U14 yrs. Ct 4: Unlawful carnal knowledge with child U13 yrs. Cts 6-7: Att unlawful carnal knowledge with child U13 yrs. Ct 8: Indec deal with child 13-16 yrs.</p>	<p>Ct 1: 18 mths imp (conc). Ct 2: 2 yrs 9 mths imp (conc). Ct 3: 2 yrs 3 mths imp (conc). Ct 4: 4 yrs 6 mths imp.</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle. Individual sentences were not challenged.</p>

<p>Delivered 27/09/2016</p>	<p>Migrated to Australia from Lebanon in 1969.</p> <p>Normal childhood.</p> <p>Father to 11 biological children; strict and religious father; supportive and caring father to a number of his children; good grandfather; currently married to his third wife.</p> <p>Retired; consistent employment history; was a productive and hardworking member of the community.</p> <p>Self-reported physical health issues; no mental health problems or illicit substance abuse.</p>	<p>NHT married A's mother and he eventually adopted her. A did not know NHT was not her biological father at the time of offending. The offending against A was committed over four to five years.</p> <p>Victim N was NHT's 15 yr old niece by marriage.</p> <p>There was a 22 yr gap between the offending against A and N.</p> <p><u>Ct 1</u> A (aged 8-9 yrs) was lying in bed with her parents. NHT touched her clitoral area.</p> <p><u>Ct 2</u> NHT drove A (aged 8-9 yrs) to a remote location; made her masturbate his erect penis and perform fellatio on him.</p> <p><u>Ct 3</u> NHT showered with A (aged 8-10 yrs). He kissed her, moved his hands over her and pushed his erect penis against her vaginal area.</p> <p><u>Ct 4</u> A (aged 8-10 yrs) was in a swimming pool with NHT. He briefly inserted his penis into her vagina.</p> <p><u>Ct 5</u> A (aged 11-12 yrs) was in bed. NHT sat on the bed and masturbated himself and took A's hand and moved it up and down his penis until</p>	<p>Ct 5: 2 yrs 6 mths imp (conc). Ct 6: 4 yrs imp (cum). Ct 7: 4 yrs imp (conc). Ct 8: 3 mths imp (cum).</p> <p>TES 8 yrs 9 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the indec dealing offences fell towards the upper end of the scale of seriousness of indec dealing offences.</p> <p>Offending had significant and ongoing adverse impact on A.</p> <p>Continued refusal to accept responsibility for his offending.</p> <p>Sentencing judge found that NHT would not offend against young female girls who are biologically related to him.</p>	<p>At [45] The intrusiveness of the conduct, particularly that involving fellatio and att pen of A's vagina with the appellant's penis, was significant and sustained. The appellant was about 22 yrs older than A, who understood him to be her father. He was in a position of trust and authority. Although violence was not employed, there was a strong element of coercion involved in the offences given the appellant's authority as A's father, the domineering role he assumed as a strict disciplinarian who resorted readily to physical punishment, and the fact that he physically imposed himself upon her. Particularly when A was living alone with the appellant...the appellant took advantage of her vulnerability when she totally depended on him for care and protection.</p> <p>At [46] The offences occurred on seven occasions over a period of</p>
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			<p>he ejaculated.</p> <p><u>Ct 6</u> At his business premises NHT took A (aged 11-12 yrs) into a locked office and attempted to insert his penis into her vagina.</p> <p><u>Ct 7</u> NHT laid on top of A (aged 11-12 yrs) and unsuccessfully attempted to penetrate her with his penis.</p> <p><u>Ct 8</u> N accepted a lift from NHT. NHT stopped in a nearby street and kissed her on the lips twice.</p>	<p>Delay had some limited mitigatory value. Credit given for NHT voluntarily returning to Australia, knowing that he would be charged.</p>	<p>about 5 yrs. While the sentencing judge was not satisfied that the appellant had committed any uncharged offences against A, the number of offences, and the period over which they were committed, demonstrate that the offending was not isolated or out of character for the appellant. The appellant was not remorseful and has not taken any steps to reduce the future risk which he poses to the community.</p> <p>At [47] The offence against N...showed that the appellant remained willing to act on his sexual interest in children after a considerable period of time.</p>
5.	<p><b><i>EXF v The State of Western Australia</i></b></p> <p><b>[2015] WASCA 118</b></p> <p>Delivered 11/06/2015</p>	<p>56 yrs at time sentencing.</p> <p>Irrelevant criminal history.</p> <p>Convicted after PG.</p> <p>Solid work history.</p> <p>Supportive current wife.</p> <p>Low self-esteem; anxiety; depression.</p>	<p>14 x Indec dealing of a child U13 yrs.</p> <p>The offending occurred between 1980 and 1986. The victims were the appellant's de facto children and he was entrusted with their care and supervision. J was aged between 4 and 10 yrs, N was aged between 7 and 13 yrs and C was aged between 4 and 7 yrs. The 14 cts were representative of a course of conduct by the appellant.</p> <p><u>Ct 2:</u></p>	<p>TES 11 yrs 6 mths imp.</p> <p>EFP.</p> <p>Low risk of re-offending; minimal treatment needs.</p> <p>Victims were significantly affected by the appellant's</p>	<p>Dismissed.</p> <p>At [69] In this case all the offences were... contrary to s 189(2) of the <i>Criminal Code</i> (WA)... The maximum penalty in respect of such offences is 7 yrs imp.</p> <p>At [70] The complainants lived under constant threat</p>

		<p>Submissive in adult relationships; has some sexual and intimacy issues.</p>	<p>J was home alone with the appellant. The appellant placed J's hand on his penis and made her masturbate him until he ejaculated over her hands. He then told her to eat the ejaculate which, though unwilling, she attempted to do.</p> <p><u>Ct 3:</u> Shortly after ct 1, the appellant pulled J's knickers off completely, kneeled in front of her, spread her legs and performed cunnilingus on her.</p> <p><u>Ct 4:</u> At around the same time as cts 2-3, the appellant forced J to perform oral sex on him, by holding the back of her head, until he ejaculated.</p> <p><u>Ct 5:</u> On another date, while the mother was away, the appellant got J up out of bed, made her kneel on the floor in front of him and perform fellatio on him. It occurred with such force that she gagged, dry-wretched and suffered small cuts on the side of her mouth that turned into sores.</p> <p><u>Ct 6:</u> On another date, while the mother was at work, the appellant asked N if she knew how to kiss like a 'big person'. She said 'yes' and the appellant then started to kiss her. She kissed him back for a long time in a way she had seen on television.</p>	<p>abusive behaviour.</p> <p>Sentencing judge noted that the admitted facts represented a serious course of ongoing abuse over several years. The appellant had groomed all three girls. This included by telling J that she was his favourite, telling each of them that the abuse was a secret and offering gifts or rewards.</p> <p>Sentencing judge said that the sexual interference was regular, sustained and, with two exceptions, without consent.</p>	<p>of abuse and were in fear of the appellant... A number of the offences... were particularly degrading and humiliating.</p> <p>At [73]-[81] Discussion of comparable cases.</p> <p>At [84] Whilst the appellant's conduct did not involve penile penetration of the vagina, there was penetration of other types and, although dealt with as indec dealing, they must be considered particularly serious examples of that type of offence... Some accumulation of sentence was necessary in this case to reflect the fact that the offending involved multiple complainants.</p> <p>At [85] The delay was not mitigating because there was nothing to suggest that the appellant had shown any remorse or contrition for his offending nor taken any steps in the period that elapsed to attend to his rehabilitation. Cooperation with the police was limited</p>
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			<p><u>Ct 7:</u> The following day, the appellant kissed N. The appellant told her she was good at it and showed her a portion of a pornographic video showing a woman performing oral sex on a man. The video was merely part of the context of the offence.</p> <p><u>Ct 9:</u> On another date, N woke to feel the appellant pulling her knickers to the side. She started to open her eyes and heard the appellant run out of the room.</p> <p><u>Cts 11-12:</u> On another date, while the mother was away, the appellant sat on the bed and pulled C onto the bed. He pulled her knickers off and stood her in front of him with her back to him. He lowered her so that she was straddling his face. He then performed oral sex on her vagina and anus.</p> <p><u>Ct 13:</u> On another date, the appellant went to C's bedroom at night and placed his fingers under her underwear. He touched her vagina and put his fingers inside her. The touching was very rough and hurt C. The appellant masturbated while he did this.</p> <p><u>Ct 14:</u> The appellant touched C's vagina, placing his fingers roughly inside her. As he did so he</p>		<p>and the pleas of guilty were entered at a very late stage.</p> <p>At [86] ...whilst it could be said that the TES was high having regard to the maximum penalty for the offences, it was not a sentence that was disproportionate to the total offending.</p>
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			<p>masturbated himself to the point of ejaculation.</p> <p><u>Ct 15:</u> On another date, while the mother was sleeping, the appellant started to masturbate in front of C and then made her lean towards him and perform oral sex on him until ejaculation.</p> <p><u>Ct 17:</u> On another date, the appellant made C sit on the floor in front of him and perform oral sex. As this was occurring the appellant was masturbating himself vigorously; his penis was hitting C's face. He ejaculated over her face.</p> <p><u>Ct 18:</u> The appellant was watching pornography and required C to perform oral sex on him.</p>		
4.	<p><b><i>McKenna v The State of Western Australia</i></b></p> <p><b>[2014] WASCA 201</b></p> <p>Delivered 05/11/2014</p>	<p>68 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No significant physical or mental health conditions at the time of sentencing.</p> <p>The totality of the appellant's offending against residents in his care and control at St Andrews Hostel was 63 offences involving 28 victims. The total sentence for all offending is 22 yrs 1 mth.</p>	<p>4 x Indec assault child U14. 19 x Indec assault on male. 4 x Carnal knowledge. 3 x Permitting a person to have carnal knowledge. 4 x Gross indec with male. (Total of 34 counts).</p> <p>The appellant sexually offended against 17 victims who resided at St Andrews Hostel in Katanning, which provided a boarding facility for students attending Katanning Senior High School. At the time of the offending, which occurred over a 12 year period between 1976 to 1988, the appellant was the warden in charge of St Andrews Hostel.</p>	<p>TES 9 yrs imp.</p> <p>Cum on 6 mths 4 mths imp imposed in 2011 (for 10 similar offences involving 5 victims).</p> <p>Sentencing judge noted seriousness of offending was at the highest order.</p> <p>Substantial effect on victims lives.</p> <p>Sentencing judge</p>	Dismissed – on papers.

			<p>The ages of the victims varied between 13 to 17 yrs, the majority being children between 13 and 14 yrs old.</p> <p>The offences the subjects of the counts were representative.</p>	<p>accepted had not offended since 1988.</p> <p>Sentencing judge noted because of number of victims and the number of offences, this case was without precedent in this State.</p> <p>Small risk of re-offending.</p>	
3.	<p><i>AIM v The State of Western Australia</i></p> <p>[2014] WASCA 155</p> <p>Delivered 27/08/2014</p>	<p>70 yrs at time of sentencing.</p> <p>Convicted after trial.</p> <p>No criminal record of significance.</p> <p>Married; 3 adult children; number of grandchildren.</p> <p>Constantly employed; actively involved in community activities.</p> <p>Number of positive references.</p> <p>General good health.</p> <p>No evidence of rehabilitation.</p>	<p>7 x s320(4) <i>Criminal Code</i> indec dealings of child U13yrs .</p> <p>6 x s320(2) <i>Criminal Code</i> Sex pen of child U13 yrs.</p> <p>Cts 1-9 concerned a girl 'A'.</p> <p>Cts 10-13 concerned another girl 'H'.</p> <p><u>Cts 1-4:</u></p> <p>The victim 'A' was in years 3 and 4 at the local primary school where the appellant was her school teacher. All the offences occurred on the school grounds. He used physical force, threats and he ignored the victim's attempts to repel his sexual advances.</p> <p>On four separate occasions the appellant rubbed his hand on A's vagina on the outside of her clothing.</p> <p><u>Cts 5 -6</u></p> <p>On two separate occasions the appellant</p>	<p>TES 12 yrs imp.</p> <p>EFP.</p> <p>The appellant was interviewed and denied any wrongdoing.</p> <p>No remorse.</p> <p>The charges concerning both victims were representative of his conduct.</p> <p>Appellant had groomed 'A'.</p> <p>Both victims badly affected; ongoing</p>	<p>Dismissed - on papers.</p> <p>At [48] the appellant will be 80 when he becomes eligible for parole and will be 82 upon the completion of the total effective sentence. It must be accepted that the appellant may well die in gaol or that a very significant proportion of his remaining life will be spent in custody.</p>

		<p>penetrated A's vagina with his finger. In Ct 6, as he penetrated her vagina he masturbated to the point where he ejaculated over her.</p> <p><u>Ct 7:</u> The appellant exposed his penis to A and started rubbing it. He asked the victim to kiss his penis but she refused.</p> <p><u>Cts 8-9</u> The appellant penetrated A's vagina with his penis. His acts of sexual penetration caused the victim physical pain. The offending against A continued until she transferred to another primary school. At about this time, the appellant ceased working as a teacher.</p> <p><u>Ct 10:</u> H is the appellant's granddaughter and was living with the appellant and his wife. The appellant commenced abusing her from 4 yrs of age. The abuse continued for the next three years. The abuse would occur on the pretence of playing games and would end up with the victim being rewarded with a chocolate covered sweet. On one occasion the appellant the victim to tickle him, he pulled his pants down and moved H's hands up and down his penis to the point of ejaculation.</p> <p><u>Cts 11-13:</u> Were committed in the appellant's bedroom in the one incident. He lay on his bed without trousers or underwear. He asked H to play with him and to take her pants off. The appellant</p>	<p>consequences.</p> <p>The sentencing judge characterised the offences against each victim as being at the upper end of the range of seriousness.</p>	
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			<p>got the victim to masturbate him and then suck his penis. He then told her he wanted to show her how to have sex. He inserted his penis into her vagina.</p> <p>The appellant would tell the victim that the sexual activity between grandfathers and granddaughters was normal.</p>		
2.	<p><b><i>Hughes v The State of Western Australia</i></b></p> <p><b>[2014] WASCA 78</b></p> <p>Delivered 15/04/2014</p>	<p>43-44 yrs at time offending. 73 yrs at time sentencing.</p> <p>Convicted after Trial.</p> <p>Suffers from Parkinson's disease, coeliac disease, prostate cancer, depression, osteoarthritis and dementia – all stable.</p>	<p>4 x s315 <i>Criminal Code</i> Indecent assault of male. 1 x s181(1) <i>Criminal Code</i> Carnal knowledge. 1 x s183 <i>Criminal Code</i> Indecent dealing Child U14 yrs.</p> <p>The offences were committed between September 1980 and December 1982. At the time the appellant operated a handyman business. The appellant advertised in a local newspaper for young boys to assist him in his work. Two of the 3 victims were employed by the appellant. The victims were aged between 13-14 yrs.</p> <p><u>Cts 1-3:</u> On one occasion the appellant touched TP's penis. On another the appellant penetrated TP's anus with his penis. On a third occasion TP performed fellatio on the appellant.</p> <p><u>Cts 4-5:</u> On PW's last day of employment, the appellant encouraged PW to suck his penis, which he did. The appellant ejaculated in PW's mouth. PW then went to the bathroom and as he was washing, the appellant penetrated his</p>	<p>TES 8 yrs imp.</p> <p>EFP.</p> <p>No remorse.</p> <p>In relation to two of the victims, the offences were representative of what had happened over a period of time.</p> <p>Groomed his victims; used coercion and blackmail in relation to some of the offending.</p> <p>Offending was at the 'upper level'.</p> <p>Low risk of re-offending.</p>	<p>Allowed. (Pullin J dissenting).</p> <p>Re-sentenced to 5 yrs imp.</p> <p>At [12] A survey of the most relevant comparable cases show that a total effective sentence of 8 years' immediate imprisonment and less have been imposed in cases where the offending as a whole is more serious with greater maximum penalties and less mitigating factors.</p> <p>At [13] The total effective sentence of 8 years is significantly more than is fairly necessary to achieve all of the recognised sentencing objectives including punishment, retribution and deterrence. Moreover, the consequence of the combination of the</p>

			<p>anus digitally. The appellant then indicated that he wished to have anal sex with PW, which PW declined.</p> <p><u>Ct 6:</u>  MT was not employed by the appellant. The appellant's neighbour's son was a student and had invited friends from school to a party at his house. MT, a student at the time, attended the party. A number of students went to the appellant's house during the party to consume alcohol. MT became heavily intoxicated to the point of sickness and fell asleep in the appellant's bed. MT awoke to the appellant sucking his penis.</p>		<p>appellant's advanced age and degenerative health problems is that the sentence of 8 years will destroy and reasonable expectation of a useful life after release and this is crushing.</p>
1.	<p><b><i>GHK v The State of Western Australia</i></b></p> <p><b>[2014] WASCA 19</b></p> <p>Delivered 29/01/2014</p>	<p>27-41 yrs at time offending.  73 yrs at time sentencing.</p> <p>Convicted after late PG (morning of trial following negotiations).</p> <p>Criminal record; 1 conviction of indecent dealing against daughter in 1982 (part of same course of conduct – did not re-offend thereafter).</p> <p>Subject to verbal, physical and sexual abuse as a child.</p> <p>Received head injuries in a motorcycle accident when 19 yrs and king hit at a hotel when 26 yrs – injuries may have caused some memory deficits.</p> <p>Twice married; 3 children to first</p>	<p>9 x s189(2) <i>Criminal Code</i> Indecent deal child U13 yrs.  2 x s185 <i>Criminal Code</i> Carnal knowledge child U13 yrs.  1 x s552,182 <i>Criminal Code</i> Att carnal knowledge.  7 x s183 <i>Criminal Code</i> Incite indecent deal child U 14 yrs.  5 x s197 <i>Criminal Code</i> Carnal knowledge of daughter.</p> <p>The offences were committed over 15 years between about 1966 and 1981. The offending involved numerous acts of sexual violation against 6 children. Four were the appellant's own biological children (2 boys and 2 girls). The others were a girl who was a ward of the State and a girl was a friend of one his daughters.</p>	<p>TES 16 yrs imp.</p> <p>EFP.</p> <p>The offences were representative of a course of conduct that occurred over an extended period of time.</p> <p>Admitted some of the offending but denied any acts of penile penetration; claimed to have no memory of some offences; No allegations put to him because interview was terminated at his</p>	<p>Allowed.</p> <p>Re-sentenced to 14 yrs imp.</p> <p>At [8] Advanced age is a relevant consideration in determining whether a sentence will be crushing. The rationale is that each year of a sentence represents a substantial proportion of the period of life which is left to an offender of advanced age.</p> <p>At [13] ... The fact that an offender is otherwise of good character has only little weight because the offences are of a kind that,</p>

		<p>marriage; 5 children to second marriage.</p> <p>Abused alcohol until about 20 yrs ago.</p> <p>No evidence of serious mental illness; presence of paedophilia.</p> <p>Suffered from some ill health – ischaemic heart disease, Paget’s disease and arthritis.</p> <p>Had not undertaken any counselling or treatment in relation to his offending and taken no steps to assist the victims.</p>	<p>When the offences were committed the victims ranged in age from 4 yrs to 13 yrs. The offending was not impulsive and involved some planning and premeditation.</p> <p>The offences ranged in seriousness from indecent dealings to multiple offences of sexual penetration, including digital/ vaginal, oral/ vaginal penetration, penile/vaginal penetration, masturbation in the presence of the victims and attempted penile/anal penetration. On one occasion the oral penetration of his daughter occurred when her mother was in hospital having just given birth.</p> <p>The appellant unsuccessfully attempted to persuade one of his daughters to bring other young girls to their home.</p> <p>The appellant exposed several of the victims to pornographic material.</p> <p>The appellant ensured that each victim was aware of the abuse being committed against the others. Some of the counts involved the appellant abusing each of his daughters simultaneously and in each other’s presence. Also, he committed several acts against his daughters in the presence of the female victim who was a friend of one of them.</p>	<p>insistence.</p> <p>Sentencing judge noted ‘the offending ceased when there were no more victims readily accessible to the appellant’.</p> <p>Sentencing judge said the appellant’s offending was in ‘the worst category of offending of this nature’.</p> <p>Low risk of re-offending.</p> <p>No victim empathy; lacked insight into his offending and its consequences.</p> <p>The long-term impact of the offences on the victims had been substantial.</p>	<p>until revealed, generally do not impact on other people or upon their perception of the offender.</p> <p>At [104] the sentencing judge referred to the fact that there was a considerable passage of time since the commission of the offences... passage of time by itself is not a mitigating factor.</p>
<b><i>Transitional provisions repealed – 14/01/2009</i></b>					

<i>Transitional provisions enacted – 31/08/2003</i>					