



FACT SHEET: Reporting Crimes to the NSW Police

Information for those ministering, working and volunteering in the Archdiocese of Sydney

The NSW Government has introduced reforms to strengthen child sexual abuse laws. The new laws are based on the Royal Commission's Criminal Justice Report. *The Criminal Legislation Amendment (Child Sexual Abuse) Bill 2018* made these changes and was introduced into the NSW Parliament in June 2018¹.

Important changes at a glance:

- Simplified offences and modernised terminology by transforming the offence of 'indecent assault' into **sexual touching** and the offence of 'act of indecency' into **sexual act**
- New offence of **failing to report** child abuse to police
- New offence of **failing to protect** a child from abuse
- New offence of **grooming a parent or carer** to access a child, and a broader offence of grooming children
- New offence of **sexual touching of a child aged 16 or 17** who is **under special care**
- Amended offence of **persistent child sexual abuse of a child**
- New limited **similar age defence** and new limited **'sexting' defence and exception**
- New rule that courts sentencing historical child sexual offences **must apply current sentencing standards** and take into account our understanding of the lifelong impact and trauma of child sexual abuse
- New rule so an offender's **good character is not a mitigating factor** at sentencing for historical child sexual abuse matters
- Retrospective **repeal of an old limitation period under s78** that has prevented some victims from obtaining justice

Failure to Report Offence

All adults in NSW are required to report information to the police if **they know, believe or reasonably ought to know** that a child (under 18 years) has been abused.

Failing to report information to police without a reasonable excuse is an offence punishable by up to two years' imprisonment. The penalty is five years if the person has accepted any benefit in exchange for failing to report.

A person will not be guilty of the offence if he or she has a **reasonable excuse** for not reporting the information to the police*. Examples of reasonable excuse include:

- If the offence has already been reported under mandatory reporting obligations, such as to the Child Protection Helpline or to the Office of the Children's Guardian under the Reportable Conduct Scheme, or the person believes on reasonable grounds that another person reported
- If the person believes on reasonable grounds that the information is already known to police
- If the victim is now an adult and doesn't want the offence reported
- If the person fears for their safety or another person's safety if they report
- If the information was obtained by the person when they were under the age of 18 years

**The issue of whether the offence will apply when a person received their information from a religious confession is covered by uniform evidence law that applies in multiple Australian jurisdictions.*

EVIDENCE ACT 1995 - SECT 127. (1) A person who is or was a member of the clergy of any church or religious denomination is entitled to refuse to divulge that a religious confession was made, or the contents of a religious confession made, to the person when a member of the clergy.

¹ NSW Government Fact Sheet: New legislation to strengthen child sexual abuse laws

Failure to Protect Offence

An adult working in an organisation doing child-related work will commit an offence if they **know** another adult working there poses a serious risk of abusing a child (under 18 years), and they have the **power to reduce or remove the risk**, and they negligently **fail to do so**.

The offence covers failures to protect against sexual or serious physical abuse and will be punishable to up to two years' imprisonment.

Broader Grooming Offences

The offence of grooming a child refers to any adult who offers a child a material or financial benefit with the intention of making it easier to access the child for unlawful sexual activity.

This includes giving a child gifts or money, which can be used to gain a child's trust. The maximum penalty for the offence is 12 years' imprisonment if the child is under 14 years of age and 10 years' imprisonment if the child is 14 or 15 years old.

It also includes any adult or provides gifts or money to an adult with the intention of making it easier to access a child in their care for unlawful sexual activity. The offence is punishable by up to six years' imprisonment where the child is under 14 years of age and five years' imprisonment where the child is 14 or 15-year-old.

More Information:

For further information, you can visit the NSW Department of Communities & Justice website at dcj.nsw.gov.au

If you have specific questions about this legislation you can email the Safeguarding and Ministerial Integrity Office on safeguardingenquiries@sydneycatholic.org or **phone 02 9390 5810**

Further Resources

Visit the Archdiocese Safeguarding website to access the Archdiocese Policy and Protocols including:

- **Fact Sheet:** What is a Reportable Crime
- **Guidance Document:** What Constitutes a Reportable Crime
- **Protocol:** Reporting Crimes to the NSW Police
- Table of Reportable Crimes