

FACT SHEET: Reporting Crimes to the NSW Police

The NSW Government 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.

The changes most relevant to Chancery, Parish and Clergy are;

Failure to report offence (s316A, Crimes Act 1900)

Under the Crimes Act 1900 (NSW), all adults in NSW are required to report information to 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.

Failure to protect offence (s43B, Crimes Act 1900)

Under the Crimes Act 1900 (NSW), an adult working in an organisation (including Parish and Chancery) doing child related work will commit an offence if they **know** another adult working there poses a serious risk of abusing a child and they have the **power to reduce or remove the risk**, and they **fail to do so**.

The offence will be punishable by up to two years imprisonment.

Broader Grooming Offences (s66EB and s66EC, Crimes Act 1900)

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 the new legislation, you can email the Safeguarding Office at safeguarding@lismore.catholic.org.au or phone 02 6621 9444

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