

# NSW strengthening child sexual abuse laws

## Sentencing and offence changes to enhance the criminal justice response to child sexual abuse

The NSW Government has announced one of the state's largest criminal reform packages to strengthen child sexual abuse laws in response to the recommendations of the Royal Commission Criminal Justice Report.

The Royal Commission into Institutional Responses to Child Sexual Abuse was announced by the Commonwealth Government in November 2012 and ran from March 2013 until December 2017.

The Royal Commission Criminal Justice Report commended many of NSW's practices in addressing and responding to sexual offending against children, but also highlighted areas where there was a need for NSW child sexual abuse laws to be strengthened.

The NSW Government is committed to addressing these shortcomings by introducing new offences and strengthening existing laws to better protect children and improve outcomes for survivors.

This historic criminal justice reform package delivers tough laws that reflect the nature of child sexual abuse and the harm it causes.

A bill implementing the new laws will be introduced to the NSW Parliament in the coming months.

### The reform package includes:

- introducing new criminal offences, including offences of failure to report and failure to protect children from abuse;
- strengthening existing criminal offences, including increasing the maximum penalty for persistent child sexual abuse to life imprisonment;

- changes to sentencing, including requiring courts to apply current sentencing standards for historic child sex offences; and
- changes to procedure, such as retrospectively repealing an old limitation period that is preventing some survivors from accessing justice today.

### New offences

Four new criminal offences will be introduced as part of the reform package including:

1. failure to report abuse of a child;
2. failure to protect a child from abuse;
3. grooming an adult to gain access to a child; and
4. sexual touching of a child aged 16 or 17 who is under the offender's special care.

The maximum penalty for the new offences of failure to report and protect will be two years imprisonment. The grooming of an adult will be punishable by up to six years' imprisonment and the sexual touching offence will be punishable by up to four years' imprisonment.

### Strengthening existing offences

Three existing NSW offences will be strengthened to ensure there are no gaps in the range of child sexual abuse offences and they reflect the gravity of the behaviour.

#### 1. Persistent child sexual abuse

This offence will be strengthened and simplified to enable more effective prosecution of repetitive child sexual abuse. The maximum sentence for the amended offence will be increased from 25 years to life imprisonment.

## 2. Grooming

The offence of grooming will be broadened to include where an adult provides a child with gifts or money with the intention of making it easier to procure the child for unlawful sexual activity.

## 3. Indecent assault and act of indecency

The difference between 'indecent assault' and 'act of indecency' will be clarified.

## Sentencing changes

The reforms will improve sentencing in cases of historical child sexual abuse.

Survivors of child sexual abuse show remarkable courage in coming forward and taking part in criminal proceedings against their abuser.

These reforms empower courts to impose sentences that recognise the seriousness of the offending and the lifelong impacts of child sexual abuse.

These reforms introduce two key changes to sentencing in historical cases:

1. When the court sentences an offender for a child sexual abuse offence (including historic matters), it must impose a sentence that reflects current sentencing standards and takes into account our current understanding of the lifelong impact and trauma of child sexual abuse.
2. A court will not take into account as a mitigating factor the previous good character of a person convicted of a historical child sexual offence when their good reputation facilitated their offending.

## How will the reform package help survivors?

These reforms will provide more survivors with the opportunity to seek the justice they deserve, and will enable the NSW Police to improve their responses and allow police to investigate a broader range of child sexual abuse.

The NSW Government has accepted the overwhelming majority of the Royal Commission's criminal justice recommendations. Of these, more than 50 will be implemented in full this year.

## What else has NSW done?

On 9 March 2018, the NSW Government announced it will opt into a national redress scheme for survivors of institutional child sexual abuse.

A single national redress scheme was a key recommendation of the Royal Commission. NSW and Victoria were the first states to join the scheme, which will provide NSW survivors with a redress payment of up to \$150,000, unlimited free counselling in NSW and direct personal responses from institutions.

The NSW Government has also already removed the limitation period for survivors to launch civil claims for compensation, and improved the Model Litigant Policy which ensures a more compassionate approach to how civil child abuse claims are managed.

Support for survivors is available through:

- Lifeline on 13 11 14
- 1800Respect on 1800 737 732
- Blue Knot Foundation on 1300 657 380
- MensLine Australia on 1300 789 978

## About the Royal Commission

The Royal Commission into Institutional Responses to Child Sex Abuse was established in response to allegations of sexual abuse of children in institutions such as boy's and girl's homes, churches, schools, sporting groups and volunteer organisations.

The Royal Commission generated more than 42,000 calls from the public and more than 8,000 private sessions in which survivors shared their own stories. It also conducted public hearings and research.

In addition, it made 2,575 referrals to authorities including police to investigate allegations.

The Royal Commission handed down four reports between 2015 and 2017, with a total of 409 recommendations addressing issues such as working with children, redress, civil litigation and criminal justice.