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**Queensland
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Failing to report sexual offences against children

Failing to report sexual offences against children

The law is being strengthened to improve the protection of children from offences of a sexual nature.

Currently only certain adults have legal obligations to report suspected harm to children (including suspected sexual abuse).

From 5 July 2021, a new law (<https://www.legislation.qld.gov.au/view/html/asmade/act-2020-032>) will make it an offence for any adult not to report sexual offending against a child by another adult to police. This means all adults will have the responsibility to report sexual offences against children to police—unless they have a reasonable excuse not to.

For this law, a *child* means a person under 16 or a person under 18 with an [impairment of the mind](https://www.qld.gov.au/law/crime-and-police/types-of-crime/sexual-offences-against-children/laws#impairment) (<https://www.qld.gov.au/law/crime-and-police/types-of-crime/sexual-offences-against-children/laws#impairment>).

Child sexual offence

A *child sexual offence* is an offence of a sexual nature committed against a child and includes:

- Indecent treatment of a child
- Carnal knowledge with or of a child
- Rape
- Incest
- Grooming a child (or their parent or carer)
- Making child exploitation material
- Maintaining a sexual relationship with a child

Learn more about [child sexual offences](https://www.qld.gov.au/law/crime-and-police/types-of-crime/sexual-offences-against-children/laws#child-sexual-offence) (<https://www.qld.gov.au/law/crime-and-police/types-of-crime/sexual-offences-against-children/laws#child-sexual-offence>).

Failure to report

The new failure to report laws will apply to everyone over 18 (i.e. all adults).

Once the laws start, if an adult reasonably believes (or should reasonably believe) that a child is being or has been the victim of sexual abuse, they must report it to the police—unless they have a reasonable excuse.

Reasonable belief

A *reasonable belief* is a belief that a reasonable person would form in the same position and with the same information. Whether a reasonable belief would be formed will always depend on the circumstances.

For example, a reasonable belief could be formed if either:

- a child states that they have been sexually abused
- the child has signs of sexual abuse.

Learn more about possible signs of child sexual abuse (<https://www.qld.gov.au/community/getting-support-health-social-issue/support-victims-abuse/child-abuse/child-sexual-abuse/child-sexual-abuse-signs>).

If you have a reasonable belief that a child has experienced sexual abuse or is at risk of sexual abuse, you must report it to the police—unless there is a reasonable excuse for not doing so.

Reasonable excuse

A *reasonable excuse* for not reporting sexual abuse against a child is not exhaustively defined in the legislation. It may include if:

- you have already reported the offence to an appropriate authority or you know another person has or will report it—for example, if you are:
 - a nurse and have already reported it to Child Safety Services
 - a teacher and your school principal or another teacher has already reported the offence according to other laws
- you received information about the victim who is now an adult and you reasonably believe they don't want to reveal it to the police
- you believe reporting the offence would endanger you or another person (other than the alleged offender).

You will not need to report an offence to the police if it has already been reported to an appropriate authority, such as Child Safety Services.

Religious confession

The new law specifies that information about a sexual offence against a child that has been gained during, or in connection with, a religious confession, must be reported to police.

Penalty

The maximum penalty for failing to report belief of a child sexual offence is 3 years' imprisonment.

Reporting of offences that occurred in the past

If you gain information after 5 July 2021 that leads you to reasonably believe a sexual offence has been committed against a child and you don't have a reasonable excuse for not reporting, you must report it—even if the abuse happened a long time ago.

If you received the information before 5 July 2021, you do not have to report it under the new laws. However, if the victim is currently under 18, you may need to report it under other reporting obligations, such as to Child Safety Services if the [mandatory reporting laws](https://www.cyjma.qld.gov.au/protecting-children/about-child-protection/mandatory-reporting) (<https://www.cyjma.qld.gov.au/protecting-children/about-child-protection/mandatory-reporting>) apply to you.

Even if you have no legal obligation to report the information, you can still choose to report it to the police.

Victim now an adult

If the victim is now over 18 (but was a child when the offence happened), you will still have to report the offence to police if you receive the information after 5 July 2021. However, if you reasonably believe they do not want to reveal the information to police, then you do not have to report it.

You also do not have to report if you have another reasonable excuse.

Examples

Scenario 1

You are at a barbecue with family members and friends. Your 14-year-old niece tells you that earlier in the afternoon an 18-year-old at the party took her into a bedroom and got her to pose for a nude photograph.

What should you do?

You must report this information to the police.

The 18-year-old may have committed an offence of making child exploitation material or indecently treating the child. Failure to report it may be an offence.

Scenario 2

Your adult partner confides in you they were sexually abused by a neighbour when they were 5. Your partner tells you they do not want to make a complaint to police.

What should you do?

As your partner is now an adult and you reasonably believe they do not want you to reveal the information to police, you do not have to report the child sexual offence to police—you have a reasonable excuse.

How to report an offence

To report an offence, contact PoliceLink on 131 444 (<tel:131444>).

If it's an emergency, phone Triple Zero (000 (<tel:000>)).

If you are unsure of your reporting obligations at work, talk to your manager or the human resources contacts at your organisation.

You may wish to get legal advice (<https://www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/legal-advice-and-investment/legal-information-and-advice>) if you are unsure about reporting.

More information

Read more about this new criminal offence in the failure to report fact sheet.

Support, information and advice for victims is available from:

- Victim Assist Queensland (<https://www.qld.gov.au/law/crime-and-police/victim-assist-queensland>).
- Kids Helpline (<https://kidshelpline.com.au>) on 1800 55 1800
- Aboriginal and Torres Strait Islander family wellbeing services (<https://www.cyjma.qld.gov.au/protecting-children/child-family-reform/meeting-needs-requirements-aboriginal-torres-strait-islander-children-families-communities/aboriginal-torres-strait-islander-family-wellbeing-services>).

Related

Separate to this work, the Department of Children, Youth Justice and Multicultural Affairs (together with Department of Justice and Attorney-General) conducted targeted consultation to seek feedback from sectors that provides services to children and young people on potential oversight and regulation of child safe standards and the establishment of a reportable conduct scheme in Queensland. Submissions closed on 23 April 2021.

For more information about this work you can:

- email RC_SPAL@cyjma.qld.gov.au (mailto:RC_SPAL@cyjma.qld.gov.au).
- write to Strategic Policy and Legislation; Department of Children, Youth Justice and Multicultural Affairs; Locked Bag 3405; BRISBANE QLD 4001

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