

## New QLD Criminal Code Offences: Failure to Report and Failure to Protect

Two new provisions to Queensland's Criminal Code will commence on Monday 5 July 2021:

- 229BB Failure to protect child from child sexual offence
- 229BC Failure to report belief of child sexual offence committed in relation to child

Children need the adults around them to act to protect them from sexual abuse. The new offences target behaviour that ignores or hides the sexual abuse of children.

### Impact on Schools and Education & Care Services (ECS)

#### *Failure to Report*

This new law will make it an offence for any adult in the community to not to report sexual offending against a child by another adult to police, unless they have a reasonable excuse for not doing so.

The failure to report offence acknowledges reporting obligations under existing legislation.

If school and ECS staff **follow the existing reporting processes** outlined in the:

- Student Protection in Anglican Schools Policy and Procedures
- Child Protection in Anglican Education & Care Services Policy and Procedures

they **will fulfil the reporting obligations** under the Criminal Code.

The maximum penalty for *failing to report* is 3 years imprisonment.

#### *Failure to Protect*

Under this new law, failing to take steps to protect children from sexual offenders will be an offence. This criminal offence compliments existing civil liability laws to protect children from abuse.

This offence will require a person in a position of power or responsibility within an institution to reduce or remove a known risk of sexual offending against a child by an adult associated with that institution.

The failure to protect offence will apply **if you are 18 or older and associated with an institution that has children in its care, supervision or control, and you:**

- **know there is a significant risk that another adult also associated with the institution** (including regulated volunteers such as home stay hosts and their residents) **will commit a sexual offence against a child or children**
- **have the power or responsibility to reduce or remove the risk**
- **wilfully or negligently fail to reduce or remove the risk.**

The maximum penalty for *failing to protect* is 5 years imprisonment.

## Why do we need these laws?

The [Royal Commission into Institutional Responses to Child Sexual Abuse](#) uncovered serious failures to protect children from being sexually abused. Some failures identified were:

- Not taking appropriate action in response to concerns raised.
- Failing to recognise signs of child sexual abuse shown in offenders' behaviour towards children, including grooming behaviours.
- Not reporting allegations of child sexual abuse to leaders in their organisation or police.
- Allowing unsupervised contact between suspected offenders and children.
- Allowing people to continue to work with children after concerns regarding sexual offending against a child were insufficiently responded to and risk continued.
- Moving suspected offenders between sites operated by the same organisation.
- Not having enough risk mitigation in place, including, for example, not checking that employees working with children held a blue card.

## Further information

These new offences follow recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse – Criminal Justice Report, and were detailed in the subsequent *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020* (passed in September 2020).

The Queensland government is working on a communications strategy to raise awareness and understanding of the operation of these new third-party offences. Currently, the following information is available:

- [www.qld.gov.au/protectchildren](http://www.qld.gov.au/protectchildren)
- <https://www.qld.gov.au/law/crime-and-police/types-of-crime/sexual-offences-against-children/failure-to-report>
- <https://www.qld.gov.au/law/crime-and-police/types-of-crime/sexual-offences-against-children/failure-to-protect>

Relevant policies, guidelines and procedures published by the Anglican Schools Commission include:

- [Working with Children in Anglican Education Policy and Guidelines & Procedures](#)
- [Student Protection in Anglican Schools Policy and Procedures](#)
- [Child Protection in Anglican Education & Care Services Policy and Procedures](#)
- [Complaints Management in Anglican Schools Policy and Procedures](#)
- [Complaints Management in Anglican Education & Care Services Policy and Procedures](#)
- [Whistleblowers in Anglican Education Policy and Procedures](#)

Please discuss any queries with:

- Schools: A Student Protection Officer, the Chair of the Child and Youth Risk Management Committee or the Principal
- Education and Care Services: A Nominated Supervisor

Contact can also be made with the ASC's Child Safety Advocate, Heather Bryce:

- [asc@anglicanchurchsq.org.au](mailto:asc@anglicanchurchsq.org.au)
- (07) 3835 2288