



CHILD SAFEGUARDING AND THE LAW

**Fact Sheet
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Child
Safeguard

INTRODUCTION

This fact sheet contains information about Child Safe legal developments in NSW. It provides information about legal obligations and reporting requirements that apply to Sport and Recreation organisations in NSW.

This document covers the following areas:

1. The Royal Commission
2. The 10 Child Safe Standards
3. Regulation of the Child Safe Standards in NSW
4. Organisational Duty to Prevent Child Abuse
5. Mandatory Reporting
6. Failure to Report offence
7. Failure to Protect offence
8. Child Grooming
9. Reportable Conduct
10. Working with Children Checks (WWCC)



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1. CHILD SAFE DEVELOPMENTS

1.1. Child Protection Revolution

Australia is undergoing a child protection revolution following the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse ('Royal Commission').

The Royal Commission investigated historical allegations of child abuse within institutions, to uncover where systems failed so that recommendations could be made to improve laws, policies, and practices.



1.2. The Child Safe Standards

The Royal Commission identified 10 critical elements that are necessary to create a safe environment for children and young people. These elements became the 10 Child Safe Standards. The Child Safe Standards articulate the essential elements of a Child Safe Organisation.

For more information, visit: [Royal Commission into Institutional Responses to Child Sexual Abuse \(childabuseroyalcommission.gov.au\)](http://childabuseroyalcommission.gov.au)

1.3. Regulation of the Child Safe Standards in NSW

From **1 February 2022**, all child-related organisations are required to implement the Child Safe Standards throughout systems, policies and processes. In NSW, the Child Safe Standards are regulated under the *Children's Guardian Act 2019* (NSW).

For more information, visit: <https://ocg.nsw.gov.au/child-safe-scheme>

2. CHILD PROTECTION LAW REFORM

<p>Organisational Duty to Prevent Child Abuse</p>	<p>Organisations in NSW that are responsible for children, must take reasonable precautions to prevent an individual associated with the organisation from perpetrating child abuse.</p> <p>Relevant Legislation: Civil Liability Act 2002 (NSW) Part 1B.</p>
<p>Mandatory Reporting</p>	<p>Mandatory reporting laws apply to certain categories of people, based on their profession, who are mandated to make a report to Child Protection Services, if they suspect a child is at risk of significant harm.</p> <p>Relevant Legislation: Children and Young Persons (Care and Protection) Act 1998 (NSW) s 27.</p>
<p>Failure to Report</p>	<p>The 'failure to report' offence imposes criminal liability on all adults who know, believe, or reasonably ought to know that a child abuse offence has been committed against a child (under 18 years), and the person fails to report this information to the police.</p> <p>Maximum Penalty: Imprisonment for 5 years. Relevant Legislation: Crimes Act 1900 (NSW) s 316A.</p>
<p>Failure to Protect</p>	<p>The 'failure to protect' offence applies to adults engaged in child-related work who know that another adult working in that organisation poses a serious risk of abusing a child, have the power to reduce or remove this risk, and negligently fail to do so.</p> <p>Maximum Penalty: Imprisonment for 2 years. Relevant Legislation: Crimes Act 1900 (NSW) s 43B.</p>
<p>Child Grooming</p>	<p>It is an offence if an adult engages in conduct with a child, with the intention of making it easier to procure the child for unlawful sexual activity.</p> <p>Relevant Legislation: Crimes Act 1900 (NSW) s 66EB(3).</p>

Reportable Conduct

Reportable conduct refers to certain types of behaviour and criminal offences, committed by an employee of an organisation. The *Children's Guardian Act 2019* defines reportable conduct as:

- a sexual offence
- sexual misconduct
- ill-treatment of a child
- neglect of a child
- an assault against a child
- an offence under s 43B (failure to protect) or s 316A (failure to report) of the Crimes Act 1900; and
- behaviour that causes significant emotional or psychological harm to a child.



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The Reportable Conduct Scheme in NSW

The Reportable Conduct Scheme aims to improve organisational responses to complaints of child abuse offences. The Scheme monitors how certain organisations investigate types of conduct ('reportable allegations' or 'reportable convictions') made against employees or volunteers within the organisation.

For more information, visit: [Reportable Conduct Scheme | Office of the Children's Guardian \(nsw.gov.au\)](#)

Working with Children Checks

The Working with Children Check (WWCC) is a requirement for anyone in paid or volunteer child-related work in NSW. Employers and organisations must verify the WWCC details of anyone they engage in child-related work.

For more information, visit: [Working with Children Check | Office of the Children's Guardian \(nsw.gov.au\)](#)

3. RESOURCES

Australian Human Rights Commission

- [Home | Child Safe Organisations \(humanrights.gov.au\)](https://www.humanrights.gov.au)

Department of Families and Justice

- [Mandatory reporters: How to make a child protection report | Family & Community Services \(nsw.gov.au\)](https://www.nsw.gov.au)
- [Child at risk of harm and neglect | Family & Community Services \(nsw.gov.au\)](https://www.nsw.gov.au)

Office of the Children's Guardian

- [Child Safe Scheme | Office of the Children's Guardian \(nsw.gov.au\)](https://www.nsw.gov.au)
- [Resources | Office of the Children's Guardian \(nsw.gov.au\)](https://www.nsw.gov.au)
- [Reportable Conduct fact sheets | Office of the Children's Guardian \(nsw.gov.au\)](https://www.nsw.gov.au)
- [Help to register and verify WWCC | Office of the Children's Guardian \(nsw.gov.au\)](https://www.nsw.gov.au)

Royal Commission

- [Final report | Royal Commission into Institutional Responses to Child Sexual Abuse \(childabuseroyalcommission.gov.au\)](https://www.childabuseroyalcommission.gov.au)

Legislation

- [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#)
- [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#)
- [Children's Guardian Act 2019 \(NSW\)](#)
- [Civil Liability Act 2002 \(NSW\)](#)
- [Crimes Act 1900 \(NSW\)](#)

