



SOUTH AUSTRALIA POLICE
KEEPING SA SAFE

Hon Matthew Swinbourn MLC
Standing Committee on Environment and Public Affairs
Legislative Council
Parliament House
PERTH WA 6000

Dear Mr Swinbourn

Inquiry into mandatory registration of children and young people on the Sex Offenders Register

On 15 April 2019 the Legislative Council of Western Australia Standing Committee on Environment and Public Affairs wrote to the South Australia Police Commissioner regarding an Inquiry being conducted into the mandatory registration of children and young people on the Sex Offenders Register. The Standing Committee invited the Commissioner to provide a written submission on the matters referred to in the terms of reference by 24 May 2019.

Section 6 *Child Sex Offenders Registration Act 2006* (South Australia) sets out the definition of a registrable offender in South Australia. Persons under 18 years of age do not qualify as registrable offenders under this section; therefore there is no mandatory registration of children in South Australia under this Act.

Section 6(1)(a) *Child Sex Offenders Registration Act 2006* states – subject to this section, a registrable offender is a person – whom a court has at any time (whether before, on or after the commencement of this section) sentenced for a class 1 or class 2 offence.

Schedule 1 of the Act lists a number of offences, which if they occurred in prescribed circumstances, are no longer classified as class 1 or 2 offences.

These offences include;

Part 2—Class 1 offences
2—Class 1 offences

(e) an offence against section 49 of the *Criminal Law Consolidation Act 1935* (unlawful sexual intercourse) other than an offence that occurred in prescribed circumstances;



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(eb) an offence of persistent sexual abuse of a child (see section 74 of the *Criminal Law Consolidation Act 1935*, as in force before the commencement of the *Criminal Law Consolidation (Rape and Sexual Offences) Amendment Act 2008*) other than an offence that occurred in prescribed circumstances;

Part 3—Class 2 offences

3—Class 2 offences

(d) an offence against section 58 of the *Criminal Law Consolidation Act 1935* (gross indecency) other than an offence that occurred in prescribed circumstances;

(2) For the purposes of this Schedule, an offence occurred in **prescribed circumstances** if—
the victim consented to the conduct constituting the offence; and
either—

the offender was, at the time of the offence, 18 years of age and the victim was not less than 15 years of age; or

(ii) the offender was, at the time of the offence, 19 years of age and the victim was not less than 16 years of age.

Therefore young people (aged 18 / 19) who commit the above offences in the prescribed circumstances are not eligible to become registrable offenders.

Under Section 9(1)(b) *Child Sex Offenders Registration Act 2006* (South Australia) a court may - on sentencing a person for a class 1 or 2 offence committed while the person was a child, order that the person comply with the reporting obligations of this Act.

Section 9(5) states the court may only make an order under this section on the application of –

(a) in the case of an order to be made by the court that is dealing with a person for an offence – the prosecution; or

(b) in any other case – a police officer.

Further to this, South Australia Police (SAPO)L members are to liaise with the SAPOL Australian National Child Offender Register (ANCOR) Registrar prior to an application under Section 9(1)(b) being made so that the suitability of the child being placed on the register can be assessed.

Criteria for consideration of an application to have a child being placed on the register would include;

- The seriousness of the offence
- The child's criminal antecedence
- Public Interest
- Any other relevant circumstances

SAPOL supports the *Child Sex Offenders Registration Act 2006* (South Australia) regarding non-compulsory registration of children, and the ability to make applications to register certain children in appropriate circumstances. SAPOL also supports the Act regarding the exemption of young people aged 18 / 19 years of age from being registered when prescribed circumstances apply.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Linda Williams', written over a horizontal line.

(Linda Williams)

DEPUTY COMMISSIONER OF POLICE

Acting Commissioner of Police

22 May 2019