

BETRAYAL OF TRUST: FACTSHEET

The new 'grooming' offence

The *Crimes Amendment (Grooming) Act 2014*, which commenced in Victoria on 9 April 2014, introduces the offence of Grooming for sexual conduct with a child under the age of 16 years. This offence targets predatory conduct designed to facilitate later sexual activity with a child.

The Betrayal of Trust report recommended the grooming offence, given the way in which many sex offenders target their victims. Grooming can be conducted in person or online, for example via interaction through social media, web forums and emails.

Many perpetrators of sexual offences against children purposely create relationships with victims, their families or carers in order to create a situation where abuse could occur. For this reason, parents, carers or other family members who have been targeted by perpetrators in order to gain access to a child are also victims.

The *Victim's Charter Act 2006* was amended to expressly provide that a child and a family member of that child are victims of a grooming offence and are entitled to provide a victim impact statement to a court.

GROOMING IS NOW A CRIMINAL OFFENCE

1. What is grooming?

- The offence of grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time.
- The offence applies where an adult communicates, by words or conduct, with a child under the age of 16 years or with a person who has care, supervision or authority for the child with the intention of facilitating the child's involvement in sexual conduct, either with the groomer or another adult.
- Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.
- The sexual conduct must constitute an indictable sexual offence. This includes offences such as sexual penetration of a child, indecent assault and indecent act in the presence of a child. It does not include summary offences, such as upskirting and indecent behaviour in public.

2. Who can commit the offence?

The offence can be committed by any person aged 18 years or over. It does not apply to communication between people who are both under 18 years of age.

3. What age are the children who are protected by the offence?

The offence applies to communication with children under 16 years, but not communication with 16 and 17 year old children. This distinction between children aged below 16 and those aged 16 or 17 reflects the general age of consent (16 years) recognised by the criminal law in relation to sexual offences.

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4. What are the key differences between the Victorian grooming offence and the grooming offences that have been implemented in New South Wales and by the Commonwealth?

The New South Wales grooming offence is confined to circumstances in which an adult engages in conduct that exposes a child to indecent material or provides the child with an intoxicating substance with the intention of making it easier to procure the child for sexual activity. The Victorian offence is broader than this and prohibits an adult from engaging in any form of communication with the intention of facilitating sexual conduct. This is not limited to exposing the child to indecent material or providing them with an intoxicating substance and may include such acts as inappropriately giving them gifts or favours with the intention of engaging in later sexual activity.

The offence is similar to the Commonwealth grooming offence. The key distinction is that the Commonwealth offence is limited to grooming via a communication transmitted through a carriage service. The Victorian offence applies to any form of communication between the adult and child, including communication that occurs in person.

5. What is the purpose of amending the *Victim's Charter Act 2006*?

Amending the *Victim's Charter Act 2006* to expressly include a family member of the child as a victim of a grooming offence (eg. the child's parents) entitles the parents, or another family member, to provide a victim impact statement to the court.

6. What is the penalty for grooming?

The maximum penalty is 10 years imprisonment.