

The Shopfront

YOUTH LEGAL CENTRE

The Child Protection Register

1 What is the Child Protection Register?

If you are found guilty of certain offences against children, you will be put on the Child Protection Register.

This means you will have to register with the police. You will also have to keep reporting to the police and updating them about your personal information for a period of time.

There are two ways you can end up on the Child Protection Register:

1. If you are found guilty of a “Class 1” or “Class 2” offence”. Being found guilty of a “Class 1” or “Class 2” offence will usually result in you being placed on the Child Protection Register, but there are situations when this may not happen (see 2.3 and 2.4 below); or
2. If you are found guilty of another type of offence and a court makes a “child protection registration order”.

You will stay on the Child Protection Register for the rest of your life, but in most cases you will only have to report to the police for a particular period of time. The amount of time depends on what the offence was, and whether you were a child or an adult when you committed the offence.

2 Registrable offences and registrable persons

2.1 What is a registrable offence?

“Registrable offences” are certain offences where the victim was a child (anyone under the age of 18 years).

Registrable offences are:

- **Class 1 offences:** these include the murder of a child, having sex with a child under 16, sexually assaulting a child, or repeatedly sexually abusing a child.
- **Class 2 offences:** these include manslaughter of a child, wounding or causing really serious injury to a child under 10 with intent to cause grievous bodily harm, sexual touching or a sexual act against a child under 16, and offences involving child prostitution and child pornography.
- Offences that are not in Class 1 or 2, if the court makes a **Child Protection Registration Order**.

2.2 Who is a registrable person?

If you have been found guilty of a Class 1 or Class 2 offence, you will automatically be a “registrable person”, *with some exceptions* (see 2.3 or 2.4 below, depending on whether you were an adult or a child at the time of the offence)

You will also be a “registrable person” if the if the court decides to make a Child Protection Registration Order (see part 3 below, *Child Protection Registration Orders*).

2.3 If you were an adult at the time of the offence(s)

You will automatically be a registrable person when your case is finalised if:

- you committed a Class 1 or Class 2 offence; and
- you are found guilty (which includes pleading guilty), and
- a conviction is formally recorded.

If you are an adult, a formal conviction will be recorded unless the court decides to deal with you under section 10 of the *Crimes (Sentencing Procedure) Act*. For more information about section 10, see our fact sheet on *Convictions and criminal records*.

2.4 If you were a child at the time of the offence(s)

If you committed a Class 1 or Class 2 offence when you were a juvenile (under 18) you will automatically be a registrable person *unless*:

1. you were dealt with under section 33(1)(a) of the *Children (Criminal Proceedings) Act* or section 10 of the *Crimes (Sentencing Procedure) Act*, or
2. you were found guilty of a single offence (or offences of the same type arising from a single incident) involving sexual acts, sexual touching, child pornography or similar offences; or
3. if you are sentenced on or after 1 December 2018, the court may declare that you are “non-registrable” if:
 - you weren’t sentenced to full-time detention; and
 - you haven’t previously committed a Class 1 or Class 2 offence; and
 - the court is satisfied you aren’t a risk to the lives or sexual safety of children (see below *What is a risk to the lives or sexual safety of children?*).

3 Child Protection Registration Orders

If you are found guilty of an offence which is *not* a Class 1 or Class 2 offence, the court may decide to make a Child Protection Registration Order (CPRO).

If the court makes a CPRO, you will be a registrable person and you will be classified as having been found guilty of a Class 2 offence.

A court may make a CPRO if:

- the court imposes a sentence on you other than an order under section 10 of the *Crimes (Sentencing Procedure) Act* or section 33(1)(a) of the *Children (Criminal Proceedings) Act*, and
- the prosecution asks the court to make the order; and
- the court thinks you pose a risk to the lives or sexual safety of children (see below *What is a risk to the lives or sexual safety of children?*).

4 What is a risk to the lives or sexual safety of children?

For a person to be considered a risk to the lives or sexual safety of children, there must be a risk that they will engage in conduct that would amount to a Class 1 or Class 2 offence.

The court will consider both the present risk and the possibility of future risk. It is not necessary for the court find that the person is a risk to a particular child or children.

When deciding if a person poses such a risk, a court will consider:

- the seriousness of registrable offences committed by the person
- the age of the person when those offences were committed
- the age of the victim when those offences were committed
- the seriousness of any other offences
- the likelihood of the person committing a registrable offence in the future
- the impact on the person of being found a risk to children
- any other matters the court considers relevant

5 How long will I be on the Register?

Once you are on the Register, **you will stay on it for the rest of your life** unless there is a change to your conviction, sentence or court order and you are no longer a registrable person (see Part 9 below: *Can I get off the Child Protection Register?*).

However, **your reporting obligations will not necessarily last for your whole life** (see Part 6 below: *Obligations to report and provide information*).

Some of the consequences of being on the Register, even after your reporting obligations are over, are:

- If you commit further “Class 1” or “Class 2” offences, you may have to start reporting again. Depending on the offence, this may result in reporting obligations being imposed for life.
- The Police may apply for a Child Protection Prohibition Order (CPPO) against you (see below *Can I have contact with children if I am on the Register?*). If a CPPO is made against you, your reporting obligations will start again.
- You cannot make an application to change your name without written approval from the Commissioner of Police.

6 Obligations to report and provide information

6.1 How do I know if I have to report?

Once you are sentenced for a registrable offence, you will be given a notice that sets out your reporting obligations and what could happen if you don't comply.

Usually this notice will be given to you by your probation/parole officer or Juvenile Justice officer. Sometimes it will be given to you by the court.

Even if you aren't given a notice, you still have reporting obligations. If you think that you might have to report but are not sure, you should seek legal advice.

6.2 When do I have to report?

You must report to a designated police station in person within 7 days of being sentenced. If you are sentenced to custody because of the offence, this 7-day period begins once you are released.

You also have to report to the police every year after that, for as long as your reporting obligations last (see below *How long do reporting obligations last for?*).

You will also have to report changes in your relevant personal information as they occur.

6.3 What do I have to report?

If you are a registrable person, you have to tell the police "relevant personal information".

You must also tell the police about any changes to your personal information (see below *Reporting changes to personal information*).

The information you have to tell the police includes:

- Name and date of birth
- Address
- If you are homeless, you have to notify police where you usually reside. This may include details about where you sleep on a regular basis including a refuge, a park or beach. You must tell police the address and location of these places if you stay more than once in a 14-day period.
- Details of employment
- Vehicle registration and details of any vehicle you own, hire or drive regularly
- Details of any affiliation with clubs which have child participants
- Details of tattoos or distinguishing marks
- Email addresses, online usernames and details of your phone and internet services
- The names and dates of birth of any children living in the household
- The name, date of birth and address of children you come into contact with, in some circumstances. "Contact" includes physical contact (both touching and being in very close proximity), as well as written and verbal communication. This applies when a registrable person is:
 - supervising or caring for a child, or
 - visiting or staying at a household where a child is present, or
 - exchanging contact details with a child, or
 - attempting to befriend a child
- If you were a child when you were placed on the register, you may be excused from reporting contacts with other children if the court considers it would stop you from going to school or interacting with children your age.

You will also have to let the police know (and sometimes get their approval) if you want to travel (see below *Can I travel if I'm on the Register?*).

6.4 How do I report?

The following reports need to be made in person to the police:

- your first report
- each annual report
- changes of address
- changes to distinguishing marks (e.g. tattoos)

If you are under 18, or if you have a disability that makes it hard to report by yourself, you can go to the police station with a support person (a parent, guardian or anyone else you choose) and they can make the report for you.

For other details that you don't have to report in person, you can report to the Crime Manager at your local police station over the phone.

6.5 Reporting changes to personal information

You must also tell the police about any changes to your personal information (see 6.3 above for a list of relevant personal information).

Most updates can be made over the phone, except for changes to your address or distinguishing features (e.g. tattoos), which must be reported in person.

Most changes must be reported to police within 7 days of the change, except:

- Changes to the details of any children living in your household must be reported within 24 hours.
- If you want to change your address you must tell police where you are thinking of moving 14 days before you move. If you don't know exactly where you are moving to, you still have to tell police the area you are thinking of moving to.
- If you have told the police about your planned change of address, and you go through with the move as planned, you don't have to report after you have moved. However, if you change your plans (e.g. you move to a different address, or on a different date, or you don't move at all) you have to report this.
- If you are moving because of an emergency, or exceptional circumstances make it impossible to report before changing address, you must tell police within 3 days after moving.
- If you have to leave your address and you have nowhere to go, you have to report this. For information about what to you have to tell police if you are homeless, see above under *What do I have to report?*

6.6 How long do reporting obligations last for?

The length of time you have to report your details and travel plans is different depending on your age and what you were found guilty of.

If you were 18 or over at the time of the offence:

- For a single Class 1 offence or two Class 2 offences: 15 years
- For a single Class 2 offence or an offence where a Child Protection Registration Order was made: 8 years
- For people who commit a second offence when they were already a registrable person: life

If you were under 18 at the time of the offence:

- For a Class 1 offence or two Class 2 offences: 7.5 years
- For a single class 2 offence or an offence where a Child Protection Registration Order was made: 4 years
- Where a juvenile offender commits a second offence when they were already a registrable person: 7.5 years

6.7 Can police check reported information?

Police have limited powers to enter a registrable person's home without notice to verify any information provided under reporting obligations.

Police can only inspect a person's house twice in the first year a person is registered and then once a year after that.

Police cannot enter or inspect the home of a person whose reporting obligations have expired.

Only a person's reported place of residence may be inspected, but if a police officer has reasonable grounds for suspecting that the person is staying somewhere else, they can enter and inspect that address.

A registrable person must allow police to enter and inspect their home and co-operate with police. Denying police entry or not co-operating is considered a breach of reporting requirements (see below *What happens if I don't report?*).

6.8 What happens if I don't report?

If you don't report without a reasonable excuse, or make an untruthful report, you could get a fine of \$55,000 or 5 years imprisonment.

If you have not received notice and are not aware of your reporting obligations, it is a defence against failing to comply with reporting obligations.

The court will consider a range of factors to decide whether you have a reasonable excuse for not reporting. These include your age, any disability that affects your ability to understand your reporting obligations, whether the notice you received and was enough to let you know about your obligations, and anything else the court thinks is relevant.

7 Can I travel if I'm on the Register?

7.1 Within Australia

You do not need police permission to travel within Australia, but *if you still have reporting obligations and you want to travel outside NSW for 14 days or more* you have to tell the police about your plans.

At least 7 days before leaving NSW, or within 24 hours if impossible to report sooner, you must provide details of:

- where you intend to go
- each address or location that you will be staying while away from NSW
- how long you will be away and the dates at each location

- whether you intend to return to NSW (if you do not intend to return, you will need to write a statement of this intention).

You also have to tell the police if you change your mind and decide not to go, or if you change your travel plans.

7.2 Overseas

If you want to travel overseas, and you still have reporting obligations, you will have to report the details to NSW Police. You may also need to seek permission to travel.

If you are an *Australian Citizen*, and you are a *registrable person with reporting obligations*, **it is an offence to travel overseas without permission from the police**. This offence is punishable by up to 5 years' imprisonment.

When deciding whether to give you permission, NSW Police will consider the proposed travel destination, the reasons for the travel, the seriousness of the registrable offences, your overall criminal history, your compliance with your reporting obligations and anything else they consider relevant. *In practice, permission to travel will only be granted in exceptional circumstances* and your ability to travel will also depend on whether the foreign country allows entry.

If you travel overseas for more than a month, your reporting obligations will be paused (unless the police tell you that you have to report to a similar agency overseas) and continue to count when you get back. That means that if you have to report for 8 years and you travel overseas for 2 months, you would have to report for 8 years and 2 months to make up for the time when you didn't have to report.

When you return you have to report to the police in NSW within 7 days.

If you were planning on travelling and had already told the police, and then you change your mind or change your travel plans, you have to let the police know.

For more information about passports and travelling overseas while on the register see: <https://www.passports.gov.au/information-reportable-offenders>.

8 Can I have contact with children if I am on the Register?

8.1 Contact with children

Being on the Register doesn't automatically stop you from having contact with children. However, you must report your contact with children to the police (see above *What do I have to report?*).

If you are a registrable person, the police may apply for a Child Protection Prohibition Order (CPPO) against you. A CPPO may prevent you from being in contact with children (either a particular child, a group of children, or all children generally).

8.2 Working with children

Being on the Register doesn't automatically stop you from working with children.

However, if you have been found guilty of a registrable offence, it is likely that you will also fail the Working With Children Check (WWCC). You will fail the WWCC not because you are on the Register, but because of the offence you have committed.

For more information see our fact sheet on *The Working With Children Check*.

9 Can I get off the Child Protection Register?

9.1 To get off the register

You will only get off the Register if:

- a court decides you are not guilty of the registrable offence by quashing or setting aside your conviction; or
- your sentence is reduced or changed so that the new sentence would not make you a registrable person; or
- you were on the register because of a Child Protection Registration Order and that order is quashed on appeal or ceases to have effect.

9.2 To stop your reporting obligations

You can apply to the NSW Civil and Administrative Tribunal (NCAT) to stop your reporting obligations early but *only* if:

- you are required to report for the rest of your life; and
- 15 years has passed since you were released from prison or were sentenced for a registrable offence (whichever is later); and
- the Tribunal is satisfied that you do not pose a risk to the safety of children (see above *What is considered a risk to the lives or sexual safety of children?*).

The Shopfront Youth Legal Centre Updated December 2019

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The Shopfront Youth Legal Centre is a service provided by Herbert Smith Freehills in association with Mission Australia and The Salvation Army.

This document was last updated in December 2019 and to the best of our knowledge is an accurate summary of the law in New South Wales at that time.

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