

## **Sexual offences**

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## Policy statement and principles

### What

Sexual offences are amongst the most serious offences committed against individuals. Police recognise that all matters of sexual assault and abuse can have destructive long-term consequences for victims regardless of their age. The psychological and emotional trauma can be extreme and/or permanent.

The response must therefore carefully balance the need to undertake the investigation as quickly as possible with the need to meet the victim's physical and emotional needs. The manner that Police respond to these crimes can have a major effect on how quickly and well a victim recovers.

NZ Police aspire to provide the best service possible to victims of crimes from initial contact through to the resolution of the investigation. This chapter provides guidance to assist with the provision of a high quality and nationally consistent standard of service to sexual offence victims.

### Why

The NZ Police vision is to have trust and confidence of all, with the strategic goals of preventing crime and victimisation, targeting and catching offenders and delivering a more responsive police service.

Compliance with this Sexual offences chapter and linked guidelines will:

- promote a high standard of service to victims
- lead to consistent high-quality investigations
- allow offenders to be held accountable for their actions
- have a major effect on how quickly and well the victim recovers
- greatly improve outcomes for victims including the ability to give clear evidence, to stay engaged with investigative and criminal justice processes, and to be seen as credible in court,

and therefore, assist to meet the strategic goals of Police.

### How

Compliance with this Sexual offences chapter and a partnered approach with key stakeholders will ensure victims of sexual offences receive a high-quality response from Police, leading to offenders being held accountable, reduced victimisation and the public having greater trust and confidence in Police.

## Overview

### Introduction

This chapter:

- details sexual and related [offences](#) and provides links to relevant legislation
- describes the application of and provides links to New Zealand Police [policies and procedures](#) for dealing with:
  - complaints of a sexual nature by children and adults
  - other sexual offending (e.g., when a victim may not be involved).

### Background

Rape and sexual violation are the most serious violations where the victim physically survives. Police recognise that all matters of sexual assault and abuse can have destructive long-term consequences for victims regardless of their age. The psychological and emotional trauma can be extreme and/or permanent.

The Police response to a sexual complaint can have a major effect on how quickly and well a victim recovers. The response must therefore carefully balance the need to undertake the investigation as quickly as possible and ensure that the victim's physical and emotional needs are met.

Police guidelines recognise the importance of communicating with victims, and where relevant their families, and keeping them informed throughout an investigation process. This is to ensure victims have a sense of empowerment (which can facilitate recovery) and to encourage their co-operation throughout the process (and hence improve the quality of the investigation).

### Key principles

These key principles underpin the Police investigation of all sexual related complaints and are reflected throughout the [adult sexual assault](#) and [child protection](#) investigation policy and procedures:

- the victim's well-being and safety is paramount
- where appropriate, Police will use the skills of specially trained [ASA](#) or child investigators along with specialist forensic interviewers
- victims must be offered specialist support and crisis support and be encouraged to have that support available to them throughout the investigation until case resolution
- sexual assault is a serious criminal act and offenders should be held accountable
- good communication and consultation with the victim, partner agency, specialist crisis response person, and medical forensic practitioners during investigations can ensure the victim's cooperation with the investigation and improve outcomes
- Police will protect the privacy of victims as far as possible during sexual related investigations.

### A partnership approach to investigations

Police are the lead agency in any criminal investigation. However, in all sexual related investigations Police work cooperatively with other agencies to achieve better outcomes for victims.

### Sexual Violence Legislation Act 2021

The [Sexual Violence Legislation Act 2021](#) amended the [Evidence Act 2006](#), the [Victims' Rights Act 2002](#) and the [Criminal Procedure Act 2011](#). It enables sexual violence complainants to put forth evidence where they may be unable or unwilling to be physically present in court. It also puts new safeguards in place, such as requiring a Judge to disallow unacceptable questions and permitting a Judge to clear the court when a complainant's evidence is presented.

### Related information

See these chapters in the Police Manual:

- [Adult sexual assault investigation \(ASAI\) policy and procedures](#) for information about:
  - the Police expectations and the corresponding responsibilities of all Police employees who respond to or are involved in the investigation of adult sexual assault complaints

- the key policies and principles that underpin the investigation of all adult sexual assaults.
- [Child protection investigation policy and procedures](#) for information about:
  - the policy and principles guiding the Police response to child safety concerns including child abuse, neglect, cyber crimes against children, child trafficking and abuse arising from children being present in unsafe environments
  - the procedures for dealing with reports to Police about child safety concerns
  - ensuring timely, coordinated and effective action in response to information about child safety concerns so that children are kept safe, offenders are held accountable wherever possible and child victimisation is reduced.
- [Investigative interviewing witness guide](#) and [Investigative interviewing - witnesses requiring special consideration](#) for information about the skills required to gain complete, accurate and reliable information from investigative interviews with victims and witnesses. It develops on the foundation provided by the investigative interviewing doctrine.
- [Victims \(Police service to victims\)](#) for information about:
  - Police responsibilities to victims
  - important legislative requirements under the Victims' Rights Act 2002 and the Evidence Act 2006
  - the procedures to be followed when supporting a victim of an offence
  - the role and relationship of Police with other agencies supporting victims of offences
  - the process for contacting the Victim Support Contact Centre.
- [Crime scene examination](#) for guidelines and minimum standards for crime scene processing.
- [Forensic evidence](#) for information about key types of physical evidence and information about the techniques and procedures for searching, recovering, preserving and packaging evidence and, where appropriate, dispatching it for scientific examination.
- [Assaults](#) for an explanation of the various types of assault, from minor through to very serious, and considers the defences of consent and self-defence. The chapter also gives guidelines for investigating assaults.
- [Behaviour offences](#) for information about indecent exposure and offensive behaviour offences.
- [Family violence policy and procedures](#) for information about Police response to family violence occurrences.

## Health and safety duties

The expectation of the Commissioner and the [Health and Safety at Work Act 2015](#) is that employees investigating sexual offences will take reasonable care to ensure that their acts or omissions do not adversely affect the health and safety of themselves or others, comply as far as they are reasonably able to with any reasonable instruction that is given to adhere with the Act and its regulations.

A key enabler is the application of the [TENR-Operational threat assessment](#) in the workplace. See also '[Health, safety and wellbeing](#)' for keeping our communities safe, and ensuring our people are safe and feel safe.

## Definitions

### Definitions of key terms applying to sexual offences

This table provides definitions of key terms applying to sexual offences in the Crimes Act 1961, Prostitution Reform Act 2003 and Summary Offences Act 1981.

Term	Definition
<b>Assault</b>	<p>Assault means the act of intentionally applying or attempting to apply force to the person of another, directly or indirectly, or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or causes the other to believe on reasonable grounds that he has, present ability to effect his purpose; and to assault has a corresponding meaning.</p> <p>(s2(1) of the Crimes Act 1961)</p> <p><b>Note:</b> The assault need not be forceful or violent; a gentle caress may suffice. The term "assault", does not necessarily involve a "battery", but may be no more than an attempt to apply force, or a threat by any act or gesture to do so:</p>
<b>Assault with intent to commit sexual violation</b>	<p>Assault with intent to commit sexual violation requires proof of an assault, i.e. the use or threat of force: <a href="#">R v Coughlan</a> 29/4/96, CA420/95; CA434/95; [CA2.03.06]. There is no requirement that the assault be indecent, and the accused will have a defence if the actions that constitute the assault were consented to, no matter what his or her ultimate intention was at the time. So long as the assault is one to which consent would ordinarily provide a defence, a mistaken belief in consent on the part of the accused will also provide a defence whether or not it was reasonable in the circumstances.</p>
<b>Bestiality</b>	<p>Bestiality means any form of intercourse between a person and an animal. See <a href="#">Police v Sheary</a> (1991) 7 CRNZ 107. Under section <a href="#">143</a> of the Crimes Act 1961 the offence of bestiality is complete upon penetration.</p>

Term	Definition
<b>Dependent family member</b>	<p>A person is a dependent family member of another person:</p> <ul style="list-style-type: none"> <li>- if the other person has power or authority over him or her, and is: <ul style="list-style-type: none"> <li>- his or her parent, step-parent, foster parent, guardian, uncle, or aunt; or</li> <li>- a parent, step-parent, or foster parent of a person described in the subparagraph above; or</li> <li>- a child of his or her parent or step-parent; or</li> <li>- the spouse or de facto partner of a person described in any of the subparagraphs above; or</li> </ul> </li> <li>- if they are members of the same family, whanau, or other culturally recognised family group, and the other person: <ul style="list-style-type: none"> <li>- is not a person referred to in all the bullet paragraphs above; but</li> <li>- has a responsibility for, or significant role in, his or her care or upbringing; or</li> </ul> </li> <li>- if he or she is living with the other person as a member of the other person's family, and the other person is not a person referred to in the first of the two main bullet paragraphs above, but has: <ul style="list-style-type: none"> <li>- power or authority over him or her; and</li> <li>- a responsibility for, or significant role in, his or her care or upbringing.</li> </ul> </li> </ul> <p><b>Aunt</b>, in relation to a person, includes a half-sister of one of the person's parents.</p> <p><b>Foster parent</b> includes a former foster parent.</p> <p><b>Guardian:</b></p> <ul style="list-style-type: none"> <li>- means guardian by virtue of the Guardianship Act 1968 or the <a href="#">Oranga Tamariki Act 1989</a>; and</li> <li>- includes a former guardian.</li> </ul> <p><b>Step-parent</b> includes a former step-parent.</p> <p><b>Uncle</b>, in relation to a person, includes a half-brother of one of the person's parents.</p> <p>(<a href="#">s131A</a> of the Crimes Act 1961)</p> <p><b>Note:</b> The Guardianship Act 1968 has been repealed and the definition of guardian in addition to the <a href="#">Oranga Tamariki Act 1989</a> is also covered by section 15 of the Care of Children Act 2004.</p>
<b>Female genital mutilation</b>	<p>Female genital mutilation:</p> <ul style="list-style-type: none"> <li>- means the excision, infibulation, or mutilation of the whole or part of the female genitalia of any person; and</li> <li>- includes: <ul style="list-style-type: none"> <li>- the partial or total removal of the clitoris, labia majora, labia minora, or prepuce, or any combination of these:</li> <li>- the narrowing of the vaginal opening by cutting or repositioning the labia majora or the labia minora, or both:</li> <li>- other harmful procedures carried out on any part of the female genitalia, such as pricking, piercing, incising, scraping, or cauterising; but</li> </ul> </li> <li>- does not include a procedure carried out for cosmetic or enhancement purposes only.</li> </ul> <p>(<a href="#">s204A(1)</a> of the Crimes Act 1961)</p>
<b>Incest</b>	<p>Incest is sexual connection between 2 people whose relationship is that of parent and child, siblings, half-siblings, or grandparent and grandchild; and the person charged knows of the relationship.</p> <p>(<a href="#">s130</a> of the Crimes Act 1961)</p>

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Term	Definition
<b>Indecent</b>	The Crimes Act 1961 does not define "indecent" and in <a href="#">R v Dunn</a> [1973] 2 NZLR 481 (CA) it was held that "indecent" should be given its "ordinary and popular" meaning, and the Court approved directions which said the question was whether the conduct offended against "a reasonable and recognised standard of decency which, in the opinion of the jury, ordinary and reasonable members of the community ought to impose and observe in this day and age on entertainment of this sort of a public nature".
<b>Indecent act</b>	For the purposes of offences under the Crimes Act 1961, one person does an indecent act on another person whether he or she: <ul style="list-style-type: none"> <li>- does an indecent act with or on the other person; or</li> <li>- induces or permits the other person to do an indecent act with or on him or her.</li> </ul> <p>(<a href="#">s2(1B)</a> of the Crimes Act 1961)</p>
<b>Indecent words</b>	In determining for the purposes of a prosecution under section 4 of the Summary Offences Act 1981 whether any words were indecent, the Court shall have regard to all the circumstances pertaining at the material time, including whether the defendant had reasonable grounds for believing that the person to whom the words were addressed, or any person by whom they might be overheard, would not be offended. <p>(<a href="#">s4(3)</a> of the Summary Offences Act 1981)</p>
<b>Intimate visual recording</b>	Intimate visual recording means a visual recording (for example, a photograph, videotape, or digital image) that is made in any medium using any device without the knowledge or consent of the person who is the subject of the recording, and the recording is of: <ul style="list-style-type: none"> <li>- a person who is in a place which, in the circumstances, would reasonably be expected to provide privacy, and that person is: <ul style="list-style-type: none"> <li>- naked or has his or her genitals, pubic area, buttocks, or female breasts exposed, partially exposed, or clad solely in undergarments; or</li> <li>- engaged in an intimate sexual activity; or</li> <li>- engaged in showering, toileting, or other personal bodily activity that involves dressing or undressing; or</li> </ul> </li> <li>- a person's naked or undergarment-clad genitals, pubic area, buttocks, or female breasts which is made: <ul style="list-style-type: none"> <li>- from beneath or under a person's clothing; or</li> <li>- through a person's outer clothing in circumstances where it is unreasonable to do so.</li> </ul> </li> </ul> <p>In <a href="#">section 216H</a>, intimate visual recording includes an intimate visual recording that is made and transmitted in real time without retention or storage in:</p> <p>(a) a physical form; or</p> <p>(b) an electronic form from which the recording is capable of being reproduced with or without the aid of any device or thing.</p> <p>(<a href="#">s216G</a> of the Crimes Act 1961)</p>
<b>Prostitution</b>	Prostitution means the provision of commercial sexual services. <p>(<a href="#">s4</a> of the Prostitution Reform Act 2003)</p>



Term	Definition
<b>Sexual exploitation</b>	<p>Sexual exploitation, in relation to a person, includes the following acts:</p> <ul style="list-style-type: none"> <li>- the taking by any means, or transmission by any means, of still or moving images of the person engaged in explicit sexual activities (whether real or simulated);</li> <li>- the taking by any means or transmission by any means, for a material benefit, of still or moving images of the person's genitalia, anus, or breasts (not being the creation or transmission of images from a cultural or artistic display or done for, or in connection with, medical or health education);</li> <li>- the person's participation in a performance or display (not being the creation or transmission of images from a cultural or artistic display) that: <ul style="list-style-type: none"> <li>- is undertaken for a material benefit; and</li> <li>- involves the exposure of the person's genitalia, anus, or breasts;</li> </ul> </li> <li>- the person's undertaking of an activity (for example, employment in a restaurant) that: <ul style="list-style-type: none"> <li>- is undertaken for a material benefit; and</li> <li>- involves the exposure of the person's genitalia, anus, or breasts.</li> </ul> </li> </ul> <p>(s <a href="#">98AA</a>(3) of the Crimes Act 1961)</p> <p><b>Note:</b> The exemption of cultural or artistic display and medical or health education does not extend to the actual display of the relevant body parts (as for example by a paid artist's model or indeed a person paid to display in person his or her body to medical students).</p> <p>(s <a href="#">98AA</a>(4), (5) and (6) of the Crimes Act 1961 refer)</p>
<b>Sexual connection</b>	<p>Sexual connection means:</p> <ul style="list-style-type: none"> <li>- connection effected by the introduction into the genitalia or anus of one person, otherwise than for genuine medical purposes, of: <ul style="list-style-type: none"> <li>- a part of the body of another person; or</li> <li>- an object held or manipulated by another person; or</li> </ul> <p>(note: introduction to the slightest degree is enough to effect connection, s <a href="#">2(1A)</a>)</p> </li> <li>- connection between the mouth or tongue of one person and a part of another person's genitalia or anus; or</li> <li>- the continuation of connection of a kind described in the bullet points above.</li> </ul> <p>(s <a href="#">2</a>, Crimes Act 1961)</p>
<b>Sexual violation</b>	<p>Sexual violation is the act of a person who:</p> <ul style="list-style-type: none"> <li>- rapes another person; or</li> <li>- has unlawful sexual connection with another person.</li> </ul> <p>(s <a href="#">128</a>, Crimes Act 1961)</p> <p><b>Note:</b> One person may be convicted of the sexual violation of another person at a time when they were married to each other (s <a href="#">128(3)</a>).</p>
<b>Sex worker</b>	<p>Sex worker means a person who provides commercial sexual services.</p> <p>(s <a href="#">4</a> of the Prostitution Reform Act 2003)</p>

Term	Definition
<b>Significant impairment</b>	<p>Significant impairment is an intellectual, mental, or physical condition or impairment (or a combination of 2 or more intellectual, mental, or physical conditions or impairments) that affects a person to such an extent that it significantly impairs the person's capacity:</p> <ul style="list-style-type: none"><li>- to understand the nature of sexual conduct; or</li><li>- to understand the nature of decisions about sexual conduct; or</li><li>- to foresee the consequences of decisions about sexual conduct; or</li><li>- to communicate decisions about sexual conduct.</li></ul> <p>(s <a href="#">138</a> of the Crimes Act 1961)</p>

# Offences

## Table of offences

A guide to categories of offences can be found in section 6 of the Criminal Procedure Act 2011. This table lists sexual and related offences, penalties and jurisdiction.

Offence	Section to..	Liable to a penalty up to	Offence type *
<b>Crimes Act 1961</b>			
<p><b><i>Dealing in people under 18 for sexual exploitation</i></b></p> <p><b>Defence</b> It is a defence to a charge under <a href="#">section 98AA</a> if the person charged proves that they believed on reasonable grounds that the person under the age of 18 years concerned was of or over the age of 18 years.</p>	<a href="#">98AA</a>	14 years	Category 3
<p><b><i>Trafficking in persons</i></b></p> <p><b>Ingredients of offence</b> Every person who arranges, organises, or procures:</p> <ul style="list-style-type: none"> <li>- the entry of a person into, or the exit of a person out of, New Zealand or any other State: <ul style="list-style-type: none"> <li>- for the purpose of exploiting or facilitating the exploitation of the person, or</li> <li>- knowing that the entry or exit of the person involves 1 or more acts of coercion against the person, 1 or more acts of deception of the person, or both, or</li> </ul> </li> <li>- the reception, recruitment, transport, transfer, concealment, or harbouring of a person in New Zealand or any other State: <ul style="list-style-type: none"> <li>- for the purpose of exploiting or facilitating the exploitation of the person; or</li> <li>- knowing that the reception, recruitment, transport, transfer, concealment, or harbouring of the person involves 1 or more acts of coercion against the person, 1 or more acts of deception of the person, or both.</li> </ul> </li> </ul> <p><b>Note:</b> Proceedings may be brought under this section even if:</p> <ul style="list-style-type: none"> <li>- parts of the process by which the person was exploited, coerced, or deceived were accomplished without an act of exploitation, coercion, or deception:</li> <li>- the person exploited, coerced, or deceived: <ul style="list-style-type: none"> <li>- did not in fact enter or exit the State concerned, or</li> <li>- was not in fact received, recruited, transported, transferred, concealed, or harboured in the State concerned.</li> </ul> </li> </ul> <p><b>Definition of 'exploit'</b> For the purposes of section <a href="#">98D</a>, exploit, in relation to a person, means to cause, or to have caused, that person, by an act of deception or coercion, to be involved in:</p> <ul style="list-style-type: none"> <li>- prostitution or other sexual services</li> <li>- slavery, practices similar to slavery, servitude, forced labour, or other forced services</li> <li>- the removal of organs.</li> </ul> <p><b>Related information</b> See the '<a href="#">People trafficking and migrant smuggling</a>' chapter in Police Instructions for further guidance.</p>	<a href="#">98D</a>	20 years, a fine not exceeding \$500,000, or both	Category 3

Offence	Section to..	Liable to a penalty up to	Offence type *
<p><b><i>Distribution or exhibition of indecent matter</i></b></p> <p><b>Defence</b> It is a defence to a charge under <a href="#">section 124</a> to prove that the public good was served by the acts alleged to have been done.</p> <p>It is a question of law whether the sale, exposure for sale, distribution, exhibition, or presentation might in the circumstances serve the public good, and whether there is evidence of excess beyond what the public good requires; but it is a question of fact whether or not the acts complained of did so serve the public good and whether or not there was such excess.</p> <p><b>No defence</b> It is no defence that the person charged did not know that the model, object, show, or performance to which the charge relates was indecent, unless that person also satisfies the court:</p> <ul style="list-style-type: none"> <li>- that he or she had no reasonable opportunity of knowing it; and</li> <li>- that in the circumstances their ignorance was excusable.</li> </ul>	<a href="#">124</a>	2 years	Category 3
<p><b><i>Indecent communication with young person under 16</i></b></p> <p><b>Note:</b> A reference to a person under the age of 16 years, or to the young person, includes a reference to a constable (as defined in section 2(1)) who pretends to be a person under the age of 16 years (the fictitious young person) if the person charged with an offence against subsection (1), when communicating with the fictitious young person and exposing the fictitious young person to indecent material, believed that the fictitious young person was a person under the age of 16 years.</p> <p><b>Defence</b> It is a defence to a charge under <a href="#">section 124A</a> if the person charged proves that:</p> <ul style="list-style-type: none"> <li>- before communicating with the young person and exposing the young person to the indecent material, the person charged had taken reasonable steps to find out whether the young person was of or over the age of 16 years; and</li> <li>- at the time of communicating with the young person and exposing the young person to the indecent material, the person charged believed on reasonable grounds that the young person was of or over the age of 16 years.</li> </ul> <p><b>No defence</b> It is no defence that the person charged did not know that the material to which the charge relates was indecent, unless the person charged also proves:</p> <ul style="list-style-type: none"> <li>- that the person charged had no reasonable opportunity of knowing it; and</li> <li>- that in the circumstances the ignorance of the person charged was excusable.</li> </ul>	<a href="#">124A</a>	3 years	Category 3
<p><b><i>Indecent act in a public place</i></b></p> <p><b>Defence</b> It is a defence to a charge under <a href="#">section 125</a> if the person charged proves that they had reasonable grounds for believing that they would not be observed.</p> <p><b>Term 'place'</b> For the purposes of this offence, the term place includes any railway carriage, and includes any ship, aircraft, or vehicle used for the carriage of passengers for hire or reward.</p>	<a href="#">125</a>	2 years	Category 3

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<b><i>Indecent act with intent to insult or offend</i></b>	<a href="#">126</a>	2 years	Category 3
<b><i>Sexual violation by rape</i></b> <b>Note:</b> One person may be convicted of the sexual violation of another person at a time when they were married to each other.	<a href="#">128(1)</a> (a)	20 years	Category 3
<b><i>Sexual violation by unlawful sexual connection</i></b> <b>Note:</b> One person may be convicted of the sexual violation of another person at a time when they were married to each other.	<a href="#">128(1)</a> (b)	20 years	Category 3
<b><i>Attempted sexual violation</i></b>	<a href="#">129(1)</a>	10 years	Category 3
<b><i>Assault with intent to commit sexual violation</i></b>	<a href="#">129(2)</a>	10 years	Category 3
<b><i>Inducing sexual connection by coercion</i></b> <b>To prove:</b> A person who has sexual connection with another person knows that the other person has been induced to consent to the sexual connection by threat if (and only if) he or she knows that the other person has been induced to consent to the sexual connection by an express or implied threat of a kind described as follows: <ul style="list-style-type: none"> <li>- a threat that the person making the threat, or some other person will commit an offence that:               <ul style="list-style-type: none"> <li>- is punishable by imprisonment; but</li> <li>- does not involve the actual or threatened application of force to any person; and</li> </ul> </li> <li>- a threat that the person making the threat, or some other person will make an accusation or disclosure (whether true or false) about misconduct by any person (whether living or dead) that is likely to damage seriously the reputation of the person against or about whom the accusation or disclosure is made; and</li> <li>- a threat that the person making the threat will make improper use, to the detriment of the person consenting, of a power or authority arising out of:               <ul style="list-style-type: none"> <li>- an occupational or vocational position held by the person making the threat; or</li> <li>- a commercial relationship existing between the person making the threat and the person consenting.</li> </ul> </li> </ul> (s 129A(3) and (5))	<a href="#">129A(1)</a>	14 years	Category 3

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Offence	Section to..	Liable to a penalty up to	Offence type *
<p><b><i>Inducing indecent act by coercion</i></b></p> <p><b>To prove:</b>                      A person who does an indecent act on another person knows that the other person has been induced to consent to the act by threat if (and only if) he or she knows that the other person has been induced to consent to the act by an express or implied threat of a kind described below, and a person is induced to consent to an indecent act whether:</p> <ul style="list-style-type: none"> <li>- he or she is induced to consent to the doing of an indecent act with or on him or her; or</li> <li>- he or she is induced to consent to do an indecent act himself or herself.</li> </ul> <p>The kinds of threat referred to above are:</p> <ul style="list-style-type: none"> <li>- a threat that the person making the threat, or some other person will commit an offence that:                             <ul style="list-style-type: none"> <li>- is punishable by imprisonment; but</li> <li>- does not involve the actual or threatened application of force to any person; and</li> </ul> </li> <li>- a threat that the person making the threat, or some other person will make an accusation or disclosure (whether true or false) about misconduct by any person (whether living or dead) that is likely to damage seriously the reputation of the person against or about whom the accusation or disclosure is made; and</li> <li>- a threat that the person making the threat will make improper use, to the detriment of the person consenting, of a power or authority arising out of:                             <ul style="list-style-type: none"> <li>- an occupational or vocational position held by the person making the threat; or</li> <li>- a commercial relationship existing between the person making the threat and the person consenting.</li> </ul> </li> </ul> <p>(s 129A(4) and (5))</p>	<p><a href="#">129A</a></p>	<p>5 years</p>	<p>Category 3</p>
<p><b><i>Incest</i></b></p> <p><b>Note:</b> Sexual connection is incest if:</p> <ul style="list-style-type: none"> <li>• it is between 2 people whose relationship is that of parent and child, siblings, half-siblings, or grandparent and grandchild; and</li> <li>• the person charged knows of the relationship.</li> </ul>	<p><a href="#">130</a></p>	<p>Every one of or over the age of 16 years who commits incest is liable to imprisonment for a term not exceeding 10 years</p>	<p>Category 3</p>
<p><b><i>Sexual connection with dependent family member</i></b></p>	<p><a href="#">131(1)</a></p>	<p>7 years</p>	<p>Category 3</p>
<p><b><i>Attempted sexual connection with dependent family member</i></b></p>	<p>131(2)</p>	<p>7 years</p>	<p>Category 3</p>
<p><b><i>Indecent act with dependent family member</i></b></p>	<p>131(3)</p>	<p>3 years</p>	<p>Category 3</p>
<p><b>Note:</b> The dependent family member cannot be charged as a party to the offence.</p>			<p>Category 3</p>
<p><b>No defence</b>                      It is not a defence to a charge under <a href="#">section 131(1)</a> that the dependent family member consented.</p>			<p>Category 3</p>

Offence	Section to..	Liable to a penalty up to	Offence type *
<p><b>A person aged 18 years or over grooming for sexual conduct with young person (under the age of 16 years)</b></p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>- It is immaterial whether, or not a response is made to the communication by the young person.</li> <li>- A reference under <a href="#">section 131AB</a> to a young person under the age of 16 years or the young person includes a reference to a constable who pretends to be a young person under the age of 16 years (the fictitious young person) if the offender, when taking any of the actions described in subsection (1), believed that the fictitious young person was a young person under the age of 16 years.</li> </ul> <p><b>Defence</b></p> <p>It is a defence to a charge under <a href="#">131AB</a> if the person charged proves that:</p> <ul style="list-style-type: none"> <li>- before the time they took the action concerned, they had taken reasonable steps to find out whether the young person was of or over the age of 16 years; and</li> <li>- at the time they took the action concerned, they believed on reasonable grounds that the young person was of or over the age of 16 years.</li> </ul>	<a href="#">131AB</a>	3 years	Category 3
<p><b>Meeting young person under 16 following sexual grooming</b></p> <p><b>Note:</b> A reference in <a href="#">section 131B</a> to a young person under the age of 16 years or the young person includes a reference to a constable who pretends to be a young person under the age of 16 years (the fictitious young person) if the offender, when taking any of the actions described in subsection (1), believed that the fictitious young person was a young person under the age of 16 years.</p> <p><b>Defence</b></p> <p>It is a defence to a charge under <a href="#">section 131B</a> if the person charged proves that:</p> <ul style="list-style-type: none"> <li>- before the time he or she took the action concerned, he or she had taken reasonable steps to find out whether the young person was of or over the age of 16 years; and</li> <li>- at the time he or she took the action concerned, he or she believed on reasonable grounds that the young person was of or over the age of 16 years.</li> </ul>	<a href="#">131B</a>	7 years	Category 3

Offence	Section to..	Liable to a penalty up to..	Offence type *
<b><i>Sexual connection with child under 12</i></b>	<a href="#">132</a> (1)	14 years	Category 3
<b><i>Attempted sexual connection with child under 12</i></b>	132(2)	10 years	Category 3
<b><i>Indecent act with child under 12</i></b>	132(3)	10 years	Category 3
<p><b>No defence</b></p> <p>It is not a defence to a charge under section 132 that:</p> <ul style="list-style-type: none"> <li>- the person charged believed that the child was of or over the age of 12 years.</li> <li>- the child consented.</li> </ul> <p>In <a href="#">section 132</a>:</p> <ul style="list-style-type: none"> <li>- child means a person under the age of 12 years; and</li> <li>- doing an indecent act on a child includes indecently assaulting the child.</li> </ul> <p><b>Case law: Circumstances where taking a photo of a child is an inherently indecent act under s 132(3)</b></p> <p>In determining whether the taking of a photograph is capable of being an indecent act under <a href="#">section 132(3)</a> of the Crimes Act, the focus must be on the subject matter of the photograph.</p> <p>The test is whether the photographs would be considered inherently indecent when judged against the objective standards of right-thinking members of society. The surrounding circumstances can aid this analysis. However, they cannot be relied on solely to show that an act is indecent under s 132(3). For example, the Supreme Court in Rowe found that R did not commit an objectively indecent act by taking photographs of three teenage girls in bikinis at the beach because the girls were dressed appropriately for the setting and the defendant did not take steps to pose the girls or cause them to behave in a sexualised manner.</p> <p>Therefore, the surrounding circumstances could not turn it into an indecent act. However, in this case, the circumstances aided the conclusion that the photographs were inherently indecent. The defendant's charges were upheld and the appeal dismissed.</p>			Category 3



Sexual offences

Proactively released by New Zealand Police

Offence	Section to..	Liable to a penalty up to	Offence type *
<b><i>Sexual connection with young person under 16</i></b>	<a href="#">134</a> (1)	10 years	Category 3
<b><i>Attempted sexual connection with young person under 16</i></b>	132(2)	10 years	Category 3
<b><i>Indecent act with young person under 16</i></b>	132(3)	10 years	Category 3
<p><b>Note:</b></p> <ul style="list-style-type: none"> <li>- No person can be convicted of a charge under <a href="#">section 134</a> if he or she was married to the young person concerned at the time of the sexual connection or indecent act concerned.</li> <li>- The young person in respect of whom an offence against <a href="#">section 134</a> was committed cannot be charged as a party to the offence if the person who committed the offence was of or over the age of 16 years when the offence was committed.</li> </ul> <p>In <a href="#">section 134</a>:</p> <ul style="list-style-type: none"> <li>- young person means a person under the age of 16 years; and</li> <li>- doing an indecent act on a young person includes indecently assaulting the young person.</li> </ul> <p><b>Defence</b></p> <p>Under <a href="#">section 134A</a> it is a defence to a charge under <a href="#">section 134</a> if the person charged proves that:</p> <ul style="list-style-type: none"> <li>- before the time of the act concerned, he or she had taken reasonable steps to find out whether the young person concerned was of or over the age of 16 years; and</li> <li>- at the time of the act concerned, he or she believed on reasonable grounds that the young person was of or over the age of 16 years; and</li> <li>- the young person consented.</li> </ul> <p><b>No defence</b></p> <p>Except to the extent provided for the defence above, it is not a defence to a charge under <a href="#">section 134</a> that:</p> <ul style="list-style-type: none"> <li>- the young person concerned consented; and</li> <li>- the person charged believed that the young person concerned was of or over the age of 16 years.</li> </ul>			Category 3
<b><i>Indecent assault</i></b>	<a href="#">135</a>	7 years	Category 3

Sexual offences

Proactively released by New Zealand Police

Offence	Section to..	Liable to a penalty up to	Offence type *
<b><i>Sexual exploitation of person with significant impairment</i></b>	<a href="#">138(1)</a>	10 years	Category 3
<b><i>Attempted sexual exploitation of person with significant impairment.</i></b>	138(2)	10 years	Category 3
<p><b>Note:</b> For these offences under <a href="#">sections 138(1) and (2)</a>, a person has exploitative sexual connection with a person with a significant impairment (the impaired person) if he or she:</p> <ul style="list-style-type: none"> <li>- has sexual connection with the impaired person knowing that the impaired person is a person with a significant impairment; and</li> <li>- has obtained the impaired person’s acquiescence in, submission to, participation in, or undertaking of the connection by taking advantage of the impairment.</li> </ul> <p>Exploitatively does an indecent act on a person with significant impairment</p> <p><b>Note:</b> For this offence, a person exploitatively does an indecent act on a person with a significant impairment (the impaired person) if he or she:</p> <ul style="list-style-type: none"> <li>- does an indecent act on the impaired person knowing that the impaired person is a person with a significant impairment; and</li> <li>- has obtained the impaired person’s acquiescence in, submission to, participation in, or undertaking of the doing of the act by taking advantage of the impairment.</li> </ul>	138(4)	5 years	Category 3
<b><i>Compelling an indecent act with an animal</i></b>	<a href="#">142A</a>	14 years	Category 3
<b><i>Bestiality</i></b>  <b>Note:</b> The offence is complete upon penetration.	<a href="#">143</a>	7 years	Category 3
<b><i>Indecency with an animal</i></b>	<a href="#">144</a>	3 years	Category 3
<b><i>Sexual conduct with child under 12 or young person under 16 outside New Zealand</i></b>  See: <ul style="list-style-type: none"> <li>- <a href="#">section 144A</a> for the range of offences covered</li> <li>- <a href="#">section 144AB</a> for legislation about party or accessory liability for sexual acts with children or young people outside New Zealand done by, or involving, foreigner principal parties</li> <li>- <a href="#">section 144B</a> for consent of Attorney-General required.</li> </ul>	<a href="#">144A</a>	same penalties as in NZ	Category 3

Offence	Section to..	Liable to a penalty up to	Offence type *
<p><b><i>Organising or promoting child sex tour</i></b></p> <p>See:</p> <ul style="list-style-type: none"> <li>- <a href="#">section 144A</a> for the range of offences covered by this section</li> <li>- <a href="#">section 144C(1)</a> for the offences of: <ul style="list-style-type: none"> <li>- makes or organises any travel arrangements</li> <li>- transports any other person to a place outside New Zealand</li> <li>- prints or publishes any information that is intended to promote conduct that would constitute an offence against <a href="#">section 144A</a></li> </ul> </li> <li>- <a href="#">section 144C(2)(a)</a> for the purposes of the making or organising of travel arrangements includes, but is not limited to: <ul style="list-style-type: none"> <li>- the purchase or reservation of tickets for travel to a country outside New Zealand</li> <li>- the purchase or reservation of accommodation in a country outside New Zealand.</li> </ul> </li> <li>- <a href="#">section 144C(2)(b)</a> for the meaning of 'publication of information'.</li> </ul>	<a href="#">144C</a>	7 years	Category 3
<p><b><i>Female genital mutilation</i></b></p> <p>See:</p> <ul style="list-style-type: none"> <li>- <a href="#">204A(1)</a> and <a href="#">(3)</a> for relevant legal definitions applying to the offence and exemptions</li> <li>- <a href="#">204A(4)</a> relating to no determination taken of cultural, religious, or other custom or practice factors</li> <li>- <a href="#">204A(5)</a> relating to consent.</li> </ul> <p>Note: No person shall be charged as a party to an offence committed upon her against <a href="#">section 204A(2)</a>. <a href="#">(s. 204A(7))</a></p> <p><b>No defence</b></p> <p>It is no defence to a charge under <a href="#">section 204A(2)</a> that the person on whom the act involving female genital mutilation was performed consented to that act, or that the person charged believed that such consent had been given. <a href="#">(s. 204A(6))</a></p>	<a href="#">204A(2)</a>	7 years	Category 3
<p><b><i>Intent to arrange female genital mutilation with child under 17 outside New Zealand</i></b></p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>- Several offences are included under <a href="#">section 204B</a> and for those provided under subsection (2) or subsection (3), it is no defence to a charge that the person on whom the act was done consented to that act, or that the person charged believed that such consent had been given.</li> <li>- No person shall be charged as a party to an offence against subsection (2) or subsection (3) committed in relation to her.</li> </ul>	<a href="#">204B</a>	7 years	Category 3
<p><b><i>Abducting for purposes of marriage or sexual connection</i></b></p>	<a href="#">208</a>	14 years	Category 3
<p><b><i>Intentionally or recklessly making an intimate visual recording</i></b></p>	<a href="#">216H</a>	3 years	Category 3
<p><b><i>Possession of intimate visual recording for purpose of publishing, exporting or selling</i></b></p>	<a href="#">216I(1)</a>	3 years	Category 3

Offence	Section to..	Liable to a penalty up to	Offence type *
<b>Possession of intimate visual recording</b>	<a href="#">216I(2)</a>	1 year	Category 2
<p><b>Publishing, importing, exporting or selling intimate recording</b></p> <p>See 'intimate visual recording' in this chapter for its definition.</p> <p>In <a href="#">section 216J</a>, unless the context otherwise requires:</p> <ul style="list-style-type: none"> <li>- publishes means any of the following: <ul style="list-style-type: none"> <li>- displays by any means</li> <li>- sends to any person by any means</li> <li>- distributes by any means</li> <li>- conveys by electronic medium</li> <li>- stores electronically in a way that is accessible by any other person or persons</li> </ul> </li> <li>- sells means sells in a physical form or by electronic medium, and includes: <ul style="list-style-type: none"> <li>- offers for sale</li> <li>- agrees to sell.</li> </ul> </li> </ul> <p>See:</p> <ul style="list-style-type: none"> <li>- <a href="#">section 216K</a> for exceptions to prohibition in <a href="#">section 216J</a></li> <li>- <a href="#">section 216L</a> for disposal and forfeiture</li> <li>- <a href="#">section 216M</a> for effect of appeal on order made under <a href="#">section 216L</a></li> <li>- <a href="#">section 216N</a> for protection from liability.</li> </ul> <p><b>Case law: Admissibility of an intimate photograph by the complainant as evidence at trial</b></p> <p>In <a href="#">Keighran v R [2022] NZCA 75 the Court</a> referenced <i>R v Holford</i> [2014] NZCA 7, which stated that “illegally obtained evidence is admissible unless its admission would amount to an abuse of process. Illegality of itself is therefore insufficient to establish abuse of process which is unfair to the appellant”.</p> <p>In the case <a href="#">Keighran v R</a>, even if the complainant obtained the photo evidence illegally (whether the complainant committed a criminal offence was a separate issue which the Court was not required to decide), the Court found that admitting it did not establish an abuse of process that would be unfair to the defendant.</p>	<a href="#">216J</a>	3 years	Category 3
<b>Prostitution Reform Act 2003</b>			
<b>Sex workers and clients must adopt safer sex practices</b>	<a href="#">9</a>	\$2,000 fine	Category 1

Offence	Section to..	Liable to a penalty up to	Offence type *
<p><b>Offences to breach prohibitions on use in prostitution of persons under 18</b></p> <p><b>Note</b> No person:</p> <ul style="list-style-type: none"> <li>- contravenes <a href="#">section 20</a> (i.e., assists a person under 18 years in providing commercial sexual services) merely by providing legal advice, counselling, health advice, or any medical services to a person under 18 years of age.</li> <li>- under 18 years of age may be charged as a party to an offence committed on or with that person against <a href="#">section 23</a>.</li> </ul> <p><a href="#">(s. 23(2) and (3))</a></p>	<a href="#">23</a>	7 years	Category 3
<b>Summary Offences Act 1981</b>			
<p><b>Indecent exposure</b></p> <p><b>Defence</b> It is a defence in a prosecution under <a href="#">section 27</a> if the defendant proves that they had reasonable grounds for believing that they would not be observed.</p>	<a href="#">27</a>	3 months	Category 2

\*Note categories:

1 = offence not punishable by imprisonment

2 = offence punishable by imprisonment of less than 2 years

3 = offence punishable by imprisonment for life or by imprisonment for 2 years or more.

## Related sexual offences

See the [Objectionable publications](#) chapter for related sexual offences under the Films, Videos and Publications Classifications Act 1993.

## Offence codes

For relevant offence codes when charging refer to the [Legislative Reference Table \(LRT - Code Book\)](#).

# Procedures for investigating complaints of sexual offending

## What guidelines apply?

Follow the:

- [Adult sexual assault investigation \(ASAI\) policy and procedures](#) in all cases where the victim of the alleged offending (male or female) is 18 years of age or older at the time of making the complaint
- [Child protection investigation policy and procedures](#) if the victim, at the time of making the complaint, is under 18 years of age.

## Exceptions

Some cases may have individual circumstances that could warrant different approaches to achieve the most favourable outcome. Due to the wide variance in sexual related complaints, there may be situations where victims should be dealt with according to either or a mixture of both adult and child guidelines. This may depend on the nature and circumstances of the victim, the offending and or the incident.

Investigators should only conduct an investigation of an adult sexual assault complaint, using the child investigation guidelines and vice versa, when there is justifiable and rational reasoning for doing so. Such decisions should be:

- made in consultation with supervisors and, where appropriate, with partner agencies, specialist crisis response persons and/or medical forensic practitioners
- appropriately recorded on the Police file and available for review within a file audit process.

## Actions when children are treated under adult guidelines

Where a child is treated under the adult guidelines, investigators must ensure that:

- Oranga Tamariki - Ministry for Children are notified of any care and protection issues
- any actions necessary to protect the child or other children that may be at risk from the offender are taken.

## Sexual offending not directly covered by adult and child guidelines

If the matter is of a sexual nature, but does not fall directly under one of the above guidelines (perhaps involving an unknown victim or a victimless activity, e.g. organising or promoting a child sex tour, offences around prostitution, indecent act in public place or [indecent exposure](#) etc.) adopt:

- the principles of the [ASAI policy and procedures](#) and its twelve key process points wherever appropriate, particularly noting the advice in the 'Investigation and evidence assessment' section on dealing with suspects, or
- another appropriate best practice investigation approach.

Regardless of the approach adopted, always consider the offender's actions, motivation and intentions and the likelihood of a link to other criminal offending, most likely also sexually based.

Consider any connected local level agreement(s) and approaches.