




Australian Government

Department of Infrastructure, Regional Development and Cities

Proposed changes to Norfolk Island laws to enhance the protection of women, children and young people

Consultation paper

March 2018



The Australian Government is enhancing child and family wellbeing services on Island.

Our aim is to provide services and have laws on Island that are broadly comparable to those in similar communities elsewhere in Australia.

As part of this work, we are proposing to modernise the laws on Norfolk Island in the coming months. This consultation paper outlines proposed legal changes and invites the community to comment on them.

Background

Over the last decade, all governments in Australia have focused on changing laws to provide better protection and better court outcomes to women, children and young people.

Communities see the need for stronger deterrence to reduce domestic violence, sexual assault and child sexual abuse. Laws in most other Australian jurisdictions have been comprehensively changed. Laws on Norfolk Island, however, have not seen similar changes.

It is important that the protections for people under Norfolk Island laws do not fall below the protections afforded to Australians on the mainland.

Progress so far

With the support of the Norfolk Island Regional Council, the Police, NIHRACS and other service providers, as well as the community, the Australian Government has enhanced child and family support services. This is part of its commitment to the health, safety and wellbeing of children and families on Norfolk Island.

We have set up a Child and Family Wellbeing Team with the Norfolk Island Health and Residential Aged Care Service (NIHRACS). In addition to the existing child welfare service, the team will include a specialist counsellor who can support children, young people and their families with problems before they get worse. The Team will also deliver community health and wellbeing initiatives that build community resilience and improve the overall health of the community.

We are providing training for local service providers and community leaders, to improve responses to domestic violence and child abuse, as well as respectful relationships training for school students.

We have made several amendments to Norfolk Island laws, including changes to the *Child Welfare Act 2009* (NI) and the *Criminal Code 2007* (NI).¹

These improvements, and the additional legal changes proposed in this paper, support the Norfolk Island Regional Council's Community Strategic Plan by contributing to a healthy and safe community (Strategic Direction 6).

Purpose of this consultation paper?

This consultation paper explains proposed changes to Norfolk Island laws. It gives families, community members and service providers an opportunity to understand the proposed changes and comment on them.

There is a process to follow when consulting with the Norfolk Island community about proposed changes to laws. This is set out in the Commonwealth Minister's Legislation Consultation Framework. Our process of obtaining community feedback on the proposed legal changes is consistent with that framework. It is also consistent with law reform processes undertaken on mainland Australia, including by the Australian Law Reform Commission and other Commissions such as the NSW Law Reform Commission.

The Australian Government has asked the Hon. Anthony Whealy QC to participate in this legal consultation process. Anthony Whealy QC is a former Judge of the Supreme Court of New South Wales and a past member of the NSW Law Reform Commission. The Judge will attend meetings on Island from 3–6 April 2018, convened by the Administrator.

Principles for legal modernisation on Norfolk Island


The Australian Government has reviewed Norfolk Island laws as they relate to women, children and young people. The review identified laws that need to be modernised, and gaps in some laws.

The changes outlined in this consultation paper focus on laws in four areas:

- criminal offences
- police powers
- court procedures
- sentencing.

The Australian Government was guided by the following factors in determining which changes to propose:

- information about the nature of violence against women and abuse of children on the mainland and on Norfolk Island
- the alignment of Norfolk Island laws with other Australian laws (particularly Commonwealth, NSW and Australian Capital Territory laws, on which most laws on Norfolk Island are based)
- recommendations for criminal law reform made by the Australian, NSW and Victorian Law Reform Commissions and other legal reviews, such as the Royal Commission into Institutional Responses to Child Sexual Abuse
- the need for Norfolk Island laws to continue to make sense
- the desirability of addressing the gap between Norfolk Island laws and other Australian laws, or otherwise improving Norfolk Island laws
- the scope of the work required to make the changes.



The Government has undertaken initial consultation with some stakeholders including: the Norfolk Island Supreme Court and Chief Magistrate of the Norfolk Island Court of Petty Sessions, the Norfolk Island Police Force, lawyers from the Commonwealth Director of Public Prosecutions and other Australian Government agencies. In addition, Anthony Whealy QC provided advice and guidance throughout the review.

Changes underway

There is a combination of laws in force on Norfolk Island, including Commonwealth, state and local. Different laws on Norfolk Island are amended through different processes. Commonwealth laws are amended through Parliament. Local laws and state laws which apply to Norfolk Island are amended by Ordinance.

Two measures are currently progressing through the Australian Parliament, in the *Investigations and Prosecution Measures Bill 2017*. These measures will amend the *Norfolk Island Act 1979 (Cth)*.

Removing time limits on the prosecution of sex offences

A one year time limit applies under Norfolk Island law to the prosecution of certain historical sex offences, including child sexual offences.²


In its 2017 *Criminal Justice* report, the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) recommended that any limitation periods or immunities that apply to child sexual abuse offences, including historical child sexual abuse offences, be removed.³ The Royal Commission referred to reforms in several Australian states and territories, including the ACT and Victoria, that not only removed limitation periods, but retrospectively removed any immunity from prosecution that an offender 'enjoyed' by the lapsing of those limitation periods.⁴

The Australian Government proposes to remove the time limits that apply to sex offences, including historic sex offences, under Norfolk Island law, and to abolish any immunity for alleged offenders arising from these time limits. This is being progressed through a Bill that is currently before the Federal Parliament, called the *Investigation and Prosecution Measures Bill 2017*, which will amend the *Norfolk Island Act 1979 (Cth)*.

Allowing the Norfolk Island Supreme Court to sit in another state or territory

The Norfolk Island Supreme Court is currently not authorised to sit outside Norfolk Island in criminal matters. This may compromise an accused person's right to a fair trial.

As a general rule, trials for criminal offences are 'local'. They take place in the region where the offence occurred, and offences are considered by a jury comprised of people living in that region. In a jurisdiction with a small population, such as Norfolk Island, it may not be in the interests of justice to hold a trial where the offence occurred. It may be difficult to find members of a jury who do not know the accused or other witnesses in one form or another. This can impact on the fairness of the trial. These same issues arose on Christmas Island in 1987 and amendments were made to the *Christmas Island Act 1958 (Cth)* to allow the Supreme Court of Christmas Island to sit on the mainland.⁵



The Australian Government proposes to allow the Norfolk Island Supreme Court to sit outside Norfolk Island in criminal matters, where appropriate and where it is in the interests of justice. This measure is being progressed through a Bill that is currently before the Federal Parliament, called the *Investigation and Prosecution Measures Bill 2017*, which will amend the *Norfolk Island Act 1979* (Cth).

Overview of other proposed legal changes

Criminal offences

The *Criminal Code 2007* (NI) (NI Criminal Code) sets out criminal offences on Norfolk Island. It is based on criminal law from the ACT – the *Crimes Act 1900* (ACT) and the *Criminal Code 2002* (ACT).

The Australian Government proposes to make some changes to the NI Criminal Code to modernise the laws relating to women, children and young people. These changes will align particular NI Criminal Code provisions with those in other Australian states and territories, including the ACT.

Updating the definition of sexual intercourse

Since the NI Criminal Code was enacted in 2007, a number of Australian states and territories have updated the definition of ‘sexual intercourse’.⁶ The updates modernised and broadened the definition and moved away from gendered classifications of sexual intercourse. They stemmed from a recommendation by the Australian Law Reform Commission in its report 114 in 2010 titled *Family Violence – A National Legal Response*.⁷ The proposed amendments to NI laws will align the definition of ‘sexual intercourse’ with the definition in the *Crimes Act 1900* (ACT).


Measure 1

The Australian Government proposes to amend the definition of ‘sexual intercourse’ in the NI Criminal Code to replace the word ‘vagina’ for ‘genitalia’, include ‘fellatio’ and amend the definition of the word ‘object’. These amendments align with the definition in the *Crimes Act 1900* (ACT).⁸

A new offence of sexual intercourse with a young person under special care

Since the NI Criminal Code was established, most Australian jurisdictions have made it a crime for an adult to have sexual intercourse with a young person in his or her ‘special care’. This refers to someone in a position of authority over a young person, such as, for instance, a teacher at school, a legal guardian, a priest or person providing religious instruction, an employer, coach, or counsellor.⁹

The offence was introduced because young people under the authority or care of an adult may be at particular risk of exploitation, even if they are above the age of consent.¹⁰



The proposed offence will be modelled on s 55A of the *Crimes Act 1900* (ACT). Section 55A makes it an offence for a person to engage in sexual intercourse with a young person aged between 16 and 17 years who is in his or her ‘special care’.

The proposed offence does not criminalise sexual intercourse between consenting adults, where the adult had a reasonable belief that the young person was at least 18, or where the adult is not more than two years older than the young person.¹¹

Measure 2

The Australian Government proposes to amend the NI Criminal Code to introduce a new offence of sexual intercourse with a child under special care.

A new offence of sexual intercourse with a person with a cognitive impairment

People with a cognitive impairment are particularly vulnerable to exploitation. The term ‘cognitive impairment’ refers to a range of disorders and states that may affect brain function, either temporarily or permanently, including intellectual disability, dementia, Alzheimer’s, autism and acquired brain injury as a result of an accident, an illness or substance abuse.

Many Australian states and territories have introduced laws that make it an offence for a person to engage in sexual intercourse with another person who has a cognitive or mental impairment, where they are responsible for that person, or with the intention of taking advantage of the impairment.

A new offence of sexual intercourse with a person with a cognitive impairment is proposed to be introduced. The offence would not criminalise sexual intercourse where the person did not know the other person had a cognitive impairment, where the person was married or the de facto partner of the person with cognitive impairment, or where the act was carried out for any proper medical or hygienic purpose.

Measure 3

The Australian Government proposes to introduce a new offence of sexual intercourse with a person with a cognitive impairment in the NI Criminal Code. The offence will be modelled, in part, on s 66F of the *Crimes Act 1990* (NSW).

Increasing penalties for particular sexual offences

Over the past decade, most Australian jurisdictions have increased the maximum penalties available under sexual offences in their criminal law. In some states, penalties for sexual offences against children have increased substantially.¹² These increases acknowledge the growing community awareness about the devastating impacts of sexual abuse and the need for strong deterrence for the commission of these violent crimes.

Measure 4

The Australian Government proposes to make minor increases to sentences for particular offences in the NI Criminal Code to reflect the position in other states and territories. The changes are:

Adult sexual offences

- Section 118(1) *act of indecency without consent*: increase from five to seven years imprisonment
- Section 118(2) *act of indecency without consent in company*: increase from seven to nine years

Child sexual offences

- Section 113(1) *sexual intercourse with a child under 10*: increase from 17 to 20 years imprisonment.

Laws about powers of police

Several different laws regulate how police on Norfolk Island carry out their duties. These laws govern how police prevent and respond to crimes, including those committed against women, children and young people.

The Australian Government has identified several changes that could be made to Norfolk Island laws to enable police to better carry out their duties. These changes are modelled on laws in operation on mainland Australia.

Updating forensic procedures

The *Crimes (Forensic Procedures) Act 2002* (NI) regulates how forensic material can be obtained, tested, stored and used. Forensic material includes things like fingerprints, photographs or samples of hair, and is often used as evidence in criminal proceedings.

The *NI Forensic Procedures Act 2002* applies forensic procedures laws from the ACT as they existed in 2002. Since that time, the ACT laws have been updated on several occasions but the updated provisions do not currently apply on Norfolk Island.¹³

Measure 5

The Australian Government proposes to amend the *NI Forensic Procedures Act 2002* to ensure the most up-to-date version of the *Crimes (Forensic Procedures) Act 2000* (ACT) applies on Norfolk Island. The updated provisions include:¹⁴

- enhanced protections for those who are asked or required to undergo a forensic procedure
- greater involvement of a Magistrate in determining whether and when a forensic procedure may be carried out
- stricter rules about what information needs to be provided to those people who are asked or required to undergo a forensic procedure.

Allowing telecommunications interception without a warrant in emergencies

The *Telecommunications Act 1992* (NI) governs telecommunications on Norfolk Island. Under that Act it is an offence to intercept telecommunications, like telephone calls or information about them. However, police are authorised to do so for the purposes of law enforcement, if they are granted a warrant by a Judge.¹⁵

The Commonwealth law, the *Telecommunications (Interception and Access) Act 1979* (Cth) governs telecommunications interception in all other Australian jurisdictions.¹⁶ Under that Act, police can intercept telecommunications without a warrant but only in certain urgent or emergency circumstances. These include where:¹⁷

- a police officer is speaking to a person and he or she believes that the person has done, or will do, something that endangers their or another person's life, health, or safety
- a police officer believes a person is likely to receive communication from another person, and that person has done, or will do, something that endangers their or another person's life, health, or safety
- a police officer is speaking to a person, they believe an emergency exists, and the interception will assist in tracing the location of the caller to deal with the emergency.

There are safeguards that apply under the Commonwealth Act to prevent misuse of the powers.¹⁸

Measure 6

The Australian Government proposes to amend the *Telecommunications Act 1992* (NI) to allow police to intercept telecommunications on Norfolk Island in urgent or emergency circumstances. These amendments will be modelled on provisions in the *Telecommunications (Interception and Access) Act 1979* (Cth) and include the relevant safeguards to prevent misuse.

Laws about court procedures

A number of different laws regulate how Norfolk Island courts operate.¹⁹ They establish rules for how the courts conduct trials, how witnesses give evidence, what evidence can be considered, and what orders can be made by the court.

The Australian Government proposes to make a number of changes to court procedures for criminal trials on Norfolk Island. These changes will make it easier for vulnerable people to give evidence in court. They will also alleviate possible distress for victims and witnesses who participate in criminal trials.

Special measures for witnesses to give evidence

Under the *Criminal Procedure Act 2007* (NI), Norfolk Island courts can modify their usual procedures to make it easier for particular witnesses to give evidence. These modifications, often called 'special measures', recognise that it can be difficult and daunting for some witnesses, including victims and survivors of abuse, to give evidence.

Measure 7

The Australian Government proposes to introduce new special measures for witnesses to give evidence, and extend the availability of those measures. Certain witnesses, like complainants in sexual and violent offence proceedings, will be able to:²⁰

- give evidence in a closed court
- give evidence by audio-visual link (AVL) from another room
- have a support person in court while they give evidence
- use a screen to avoid seeing the accused while they give evidence
- have a pre-recorded interview (like a police interview) admitted as their evidence-in-chief.

The proposal would, in part, implement the recommendation from the Royal Commission.

Most mainland jurisdictions have created new special measures and extended the availability of those measures to additional groups. The Royal Commission also made recommendations about extending special measures and who they should be available for.²¹

The new special measures proposed for Norfolk Island courts, are modelled on special measures available in the ACT under the *Evidence (Miscellaneous Provisions) Act 1991* (ACT).

Allowing records of evidence to be admitted in subsequent trials or retrials

In its 2010 *Family Violence – A National Legal Response* report, the Australian Law Reform Commission recommended that records of the evidence of an alleged victim in a sexual offence proceeding should be admissible in any subsequent trial or retrial.²² Several states and territories have amended their laws to implement the Australian Law Reform Commission's recommendation.

It can be traumatic for alleged victims of sexual abuse to give evidence. Sometimes after they give evidence, a new trial is ordered on appeal and they have to give evidence again. This often happens years after the initial trial. But if we ensure that a record of the person's evidence is admissible at the new trial, the person won't have to give evidence a second time.

The Royal Commission went a step further than the Australian Law Reform Commission and recommended that legislation should require that evidence given in child sexual abuse prosecutions is recorded and admissible in any subsequent trial or retrial.²³ This creates an onus on the court to make an audio-visual recording of a victim's evidence and allow that recording to be admitted subsequently.

Measure 8

To implement both recommendations, the Australian Government proposes to amend the *Criminal Procedure Act 2007* (NI) to:

- allow records of the evidence of an alleged victim in a sexual offence proceeding to be admitted in any subsequent trial or retrial²⁴
- require that the evidence of an alleged victim given by AVL in a sexual offence proceeding is recorded and admissible in any subsequent trial or retrial.²⁵

Preventing particular witnesses from being examined by self-represented accused people

Since the *Criminal Procedure Act 2007* (NI) was introduced, most Australian jurisdictions have enacted legislation to prevent particular witnesses from being examined in court by self-represented accused people.²⁶ These provisions aim to reduce the potential distress and humiliation that a witness might feel when being examined by the person accused of committing a violent crime against them. There is no provision to prevent such distress and humiliation happening in a NI court.

Measure 9

The Australian Government proposes to introduce provisions in the *Criminal Procedure Act 2007* (NI) to prevent particular witnesses being examined by self-represented accused people. These provisions will be modelled on those in the *Evidence (Miscellaneous Provisions) Act 1991* (ACT) and will apply to complainants and other witnesses giving evidence in sexual or violent offence proceedings. The court may appoint a person to examine the witnesses instead of the self-represented accused.²⁷

Reforming the Evidence Act 2004 (NI)


When the *Evidence Act 2004* (NI) was enacted in 2004, it was based on evidence law that was uniform across most Australian states and territories. Since 2004, there have been advances in evidence law, which have not been incorporated into the *Evidence Act 2004* (NI).²⁸

Measure 10

Rather than draft very significant changes to this Act, the Australian Government proposes to repeal the *Evidence Act 2004* (NI) and replace it with the *Evidence Act 1995* (NSW). This will ensure that Norfolk Island courts operate under the most up-to-date evidence law, consistent with other Australian states and territories.

Sentencing law

The *Sentencing Act 2007* (NI) governs, among other things, what a court can consider in sentencing people convicted of crimes. The Australian Government proposes to make two minor changes to this Act to ensure that people convicted of sexual or violent crimes are sentenced in the same way as they would be on the mainland.



The *Sentencing Act 2007* (NI) sets out factors which a Norfolk Island court must consider when sentencing an offender. These include the offender's character, and the presence of any aggravating or mitigating factors in their offending.

The Royal Commission recommended that state and territory governments introduce legislation to provide that good character be excluded as a mitigating factor in sentencing for child sexual abuse offences where that good character facilitated the offending.²⁹ This provision also exists in s 21A of the *Crimes (Sentencing Procedure) Act 1999* NSW.

Measure 11

The Australia Government proposes to amend the *Sentencing Act 2007* (NI) to provide that good character be excluded as a mitigating factor where it was of assistance to the offender in committing the offence, or facilitated the commission of the offence.

Limiting the availability of home detention orders

Like a number of other jurisdictions in Australia, Norfolk Island law authorises a sentencing court to make a home detention order. A home detention order, which can last up to 12 months, requires the offender to reside or remain at a particular place. A home detention order is a substitute for – not an alternative to – imprisonment.

Home detention orders are not appropriate for particular offences, including sexual and violent crimes. A number of other Australian jurisdictions have limited the availability of home detention orders for these offences.

Measure 12


The Australia Government proposes to amend the *Sentencing Act 2007* (NI) to provide that home detention orders are not available for:

- a person convicted of a sexual offence
- a person convicted of a domestic violence offence against the person with whom the convicted person will likely reside under the home detention
- a person whom the court considers likely to commit a sexual or violent offence while the order is in force.

Domestic violence laws

In September 2017, the Administrator of Norfolk Island announced proposed changes to the *Domestic Violence Act 1995* (NI).³⁰

Since the *Domestic Violence Act 1995* (NI) was passed in 1995, there have been advances in the law in other Australian jurisdictions. Rather than draft significant changes to this Act, the Australian



Government proposes to repeal the existing law and replace it with the *Crimes (Domestic and Personal Violence) Act 2007* (NSW).

This Act protects a broader range of people than the current law in Norfolk Island. It will also allow an individual who is not necessarily in a domestic relationship with a person, but who has reasonable grounds to fear personal violence from that person, to apply for a protection order. Applications may also be made by the Norfolk Island Police Force and will be heard, in the first instance, by the Norfolk Island Court of Petty Sessions.

In addition, provisions of the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) will also be unsuspending. This will modernise police powers in preventing and responding to incidents of domestic violence.

How can you have your say?

The Australian Government now invites families, the community, service providers and other stakeholders to comment on the proposed changes in this consultation paper. You can make comments in writing to the Office of the Administrator (office.administrator@infrastructure.gov.au). The closing date for comments is **5pm Monday 9 April 2018**.

The Administrator will convene two public meetings on Island in which interested parties can hear more about the proposals and provide their comments in person. Anthony Whealy QC will attend the meeting to discuss the proposed changes with the community. These meetings will be held in Governor's Lodge on **4 April (5:30-7:00pm)** and **5 April (12:30-2:00pm)**

The Australian Government will draw on the input and feedback it receives from the community when it formulates the changes to Norfolk Island laws. The government will not publish any written submissions received.

Next steps

The proposed measures seek to amend local laws and state laws which apply to Norfolk Island, so they will be amended by Ordinance. Following discussions with the community, work will begin to draft the instruments that will make the changes into law.

Depending on the issues raised during the consultations, there may need to be further consultation with the community or service providers on Island on the proposed changes.

Endnotes

- ¹ Eric Hutchinson, 'New laws to enhance child safety on Norfolk Island' (Press Release 18 November 2017).
- ² The offences are: carnally knowing a girl between 10 and 16; attempting to carnally know a girl between 10 and 16; and indecent assault. These offences were established by ss 71, 72 and 76 (respectively) of the *Crimes Act 1900* (NSW), which applied to Norfolk Island between 1960 and 1993 by virtue of s 3 the *Criminal Law Act 1960* (NI).
- ³ Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice: Parts III-VI*, Sydney, August 2017, pg 129 (Recommendation 30).
- ⁴ For the ACT, see s 441 of the *Crimes Act 1900* (inserted in 2013 by the *Crimes Legislation Amendment Act 2013 (No 2)*); for Victoria, see s 7A of the *Criminal Procedure Act 2009* (inserted in 2014 by the *Crimes Amendment (Sexual Offences and Other Matters) Act 2014*).
- ⁵ See *Christmas Island Act 1958* (Cth) ss 11AA, 12A, 12B, 18A and 18F.
- ⁶ See, for example, *Crimes Act 1900* (NSW) s 61H(1); *Crimes Act 1958* (Vic) s 35(1); *Crimes Act 1900* (ACT) s 50(1).
- ⁷ Australian Law Reform Commission, *Family Violence—A National Legal Response*, Report 114, October 2010, pgs 36–37 (Recommendation 25–1).
- ⁸ *Crimes Act 1900* (ACT) s 50(1).
- ⁹ See, for example, *Crimes Act* (NSW) s 73(3); *Crimes Act 1958* (Vic) s 49(4); *Criminal Law Consolidation Act 1935* (SA) s 49(5a); *Criminal Code* (NT) s 128(3); *Crimes Act 1900* (ACT) s 55.
- ¹⁰ Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice: Parts III-VI*, Sydney, August 2017, pg 98.
- ¹¹ *Crimes Act 1990* (ACT) ss 55A(3) and 55A(4).
- ¹² For example, under s 66A of the *Crimes Act 1900* (NSW), the maximum penalty for the offence of sexual intercourse with a child under 10 years is life imprisonment.
- ¹³ Section 3 of the *Crimes (Forensic Procedures) Act 2002* (NI) applies the *Crimes (Forensic Procedures) Act 2000* (ACT) as at 9 April 2002, as if were a Norfolk Island law.
- ¹⁴ *Crimes (Forensic Procedures) Act 2000* (ACT) ss 40A, 49A, 79.
- ¹⁵ *Telecommunications Act 1992* (NI) ss 48(1), 48(2)(c).
- ¹⁶ *Telecommunications (Interception and Access) Act 1979* (Cth) 4B.
- ¹⁷ *Telecommunications (Interception and Access) Act 1979* (Cth) ss 7(4), 7(5), 30.
- ¹⁸ *Telecommunications (Interception and Access) Act 1979* (Cth) s 7(6).
- ¹⁹ See, for example, *Court of Petty Sessions Act 1960* (NI), *Supreme Court Act 1960* (NI), *Criminal Procedure Act 2007* (NI), *Court Procedures Act 2007* (NI), *Evidence Act 2004* (NI).
- ²⁰ *Evidence (Miscellaneous Provisions) Act 1991* (ACT) Chapters 2, 4, 7, Part 4.3.
- ²¹ Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice Parts VII – X and Appendices*, Sydney, August 2017, pg 102 (Recommendation 61).
- ²² Australian Law Reform Commission, *Family Violence—A National Legal Response*, Report 114, October 2010, Recommendation 28–1, pg 1316.
- ²³ Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice Parts VII – X and Appendices*, Sydney, August 2017, pg 96 (Recommendation 56).
- ²⁴ These provisions will be modelled on those in the *Criminal Procedure Act 1986* (NSW).
- ²⁵ These provisions will be modelled on those in the *Crimes Act 1900* (ACT).
- ²⁶ See *Crimes Act 1914* (Cth) ss 15YF–15YG; *Criminal Procedure Act 1986* (NSW) s 294A; *Criminal Procedure Act 2009* (Vic) s 356; *Evidence Act 1977* (Qld) ss 21N–21S; *Evidence Act 1906* (WA) s 25A; *Evidence Act 1929* (SA) s 13B; *Evidence (Miscellaneous Provisions) Act 1991* (ACT) s 38D; *Sexual Offences (Evidence and Procedure) Act 1983* (NT) s 5.
- ²⁷ *Evidence (Miscellaneous Provisions) Act 1991* (ACT) s 38D(6).
- ²⁸ In 2005, the Australian Law Reform Commission released ALRC Report 102 on Uniform Evidence Law. The report made 63 recommendations for reform. Most, if not all, were incorporated into a model uniform evidence bill endorsed by then Standing Committee of Attorneys-General in 2007 and adopted by Australian jurisdictions. Norfolk Island did not update its Evidence Act in accordance with the model uniform evidence bill.
- ²⁹ Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal justice Parts VII – X and Appendices*, Sydney, August 2017, pg 299 (Recommendation 74).
- ³⁰ Eric Hutchinson, 'Proposed changes to modernise laws on Norfolk Island' (Press Release 22 September 2017).