

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO

**Program:** Australian Federal Police

**Question No. SBE16/006**

**Senator Xenophon asked the following question at the hearing on 17 October 2016:**

Senator XENOPHON: I am aware of the Attorney's caution about putting hypotheticals, but I will put this to you in very broad terms. At the moment is it fair to say that in the absence of showing a sexual purpose—if an adult, for instance, lies about their age to a child online and then seeks to meet that child, and there is no reference to sexual purposes or any prurient interest—that in itself falls short of the offence that Senator Kakoschke-Moore referred to?

Mr Colvin: Yes, because that offence is about grooming for the purposes of sex.

Senator XENOPHON: Right. So an adult lying about their age online to a child and then attempting to meet that child would fall short of the current definition?

Mr Colvin: I have not got the legislation in front of me.

Senator XENOPHON: But could you please take that on notice. That might be quite useful.

**The answer to the honourable senator's question is as follows:**

The existence of a “reference to sexual purposes” in a communication is not an element of any of the offences in s474.26 or s474.27 of the Criminal Code. The offence in s474.26 requires the adult offender to act with an intention of procuring sexual activity from a person they believe to be under 16 years of age. The offence in s474.27 requires the adult offender to act with an intention to make it easier to procure sexual activity from a person they believe to be under 16 years of age.