

Unlawfully procuring a child under 16 to commit an indecent act (s 210(1)(b))

The prosecution must prove that:

1. The defendant unlawfully procured a child.

“Procured” means to bring about. Procuring can be regarded as bringing about a course of conduct which the complainant would not have embarked upon of his or her own volition.

“Unlawfully” means not justified authorised or excused by law.

2. To commit an indecent act.

“Indecent” bears its ordinary everyday meaning, that is what the community regards as indecent. It is what offends against currently accepted standards of decency. Indecency must always be judged in the light of time, place and circumstances.¹

3. The complainant was under 16 years.²

4. Refer to any circumstances of aggravation.³

¹ *R v Dunn* [1973] 2 NZLR 481.

² If the offence is alleged to have been committed in respect of a child of or above 12 years, it is a defence to prove that the defendant believed on reasonable grounds, that the child was of or above 16 years (s 210(5)). See also s229 which provides that, except as otherwise stated, it is immaterial that the defendant did not know the person was under the specified age or believed that the person was not under that age.

³ Section 210(3),(4) and (4A). See also Circumstances of Aggravation in Sexual Offences (100.1). The offence is a prescribed offence under s 161Q *Penalties and Sentences Act* 1992 so a serious organised crime circumstance of aggravation is applicable.