

Know your rights and responsibilities: sex and consent



We all have sexual rights and responsibilities and want safe, respectful, and healthy relationships. We all have the right to decide when, where, in what situation, and with whom we would like to be sexual. If you think you are ready to start having a sexual relationship with someone, it is important to be aware of the laws in Australia governing sex and consent.

SUMMARY

- Any sexual activity without consent is against the law.
- It's important everyone involved gives positive consent before engaging in any sexual activity.
- Sexual assault is a serious crime. If you have been sexually assaulted, you have the right to get help. You can call the police on 000 or to speak to a counsellor, call 1800 RESPECT on 1800 737732.

What is a sexual act?

Under the law, 'sex' means all types of sex acts and sexual touching, including kissing, masturbation and oral sex. Before you engage in a sexual act, everyone involved must give positive consent, which means that they must actively communicate consent. It is not enough to say that consent was given because someone did not refuse or resist.

What is consent?



To give consent means to agree. Sexual consent is when people of **full mental capacity** and of the **legal age of consent**, actively and freely agree to engage in sexual activity.

To ask for consent can be as simple as asking, "Do you want to have sex?" The other person can answer "yes" or "no". Both you and your partner must agree to have sex — every time — for it to be consensual, even if you are in an ongoing relationship with that person.

You or your partner cannot give consent if your ability to give consent has been reduced or affected. If someone is unconscious or unresponsive, or has impaired judgement from drinking alcohol or taking drugs, they cannot give consent. If your partner pressures you into sex, that can be a sign of an unhealthy, unsafe relationship. Forcing someone to have sex is illegal and can result in imprisonment. Refer to the fact sheet [Know your rights and responsibilities: domestic and family violence](#) to learn more about healthy relationships, sexual violence and the law.

A person with a 'cognitive disability' means they have an underlying medical condition such as a brain injury or dementia or disability which affects their thinking, reasoning or memory. In most states in Australia, people with cognitive disability have the same rights to consensual sex as anybody else. But it can be more complex for someone with a cognitive disability to consent, for example, if they find it hard to communicate or do not understand their right to refuse sex. You cannot have sex with a person with a cognitive disability if they are not able to give consent.



Sexual activity without consent is against the law!



In Australia, it's against the law to engage in sexual activity with another person, even kissing or touching, if they have not given or are unable to give consent. This is called sexual assault and it's a crime.



Sharing a nude or sexual image of a person without their consent or permission is also against the law and can be reported to police. You can find out more on the [eSafety Commissioner website](#).



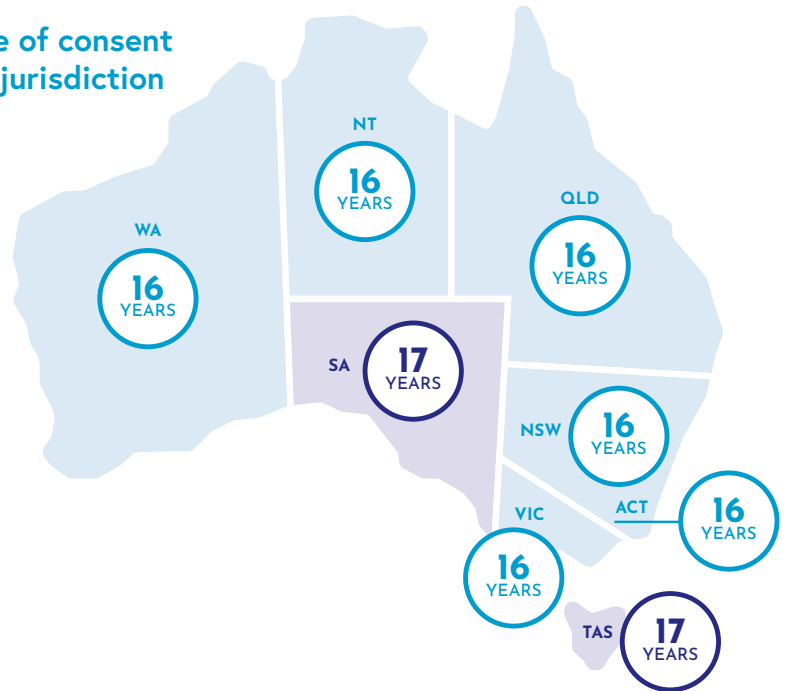
You must make sure your partner is over the **legal age of consent**. According to Australian law, a child does not have the decision-making capacity to give consent. This means any sexual activity with a person under the age of consent is a crime.

What is the legal age of consent?

When an adult engages in sexual activity with a person below the **legal age for consensual sex**, this is considered child sexual abuse which is a crime. The legal age for consent is 16 years old in most Australian states and territories, and 17 years old in Tasmania and South Australia

You must make sure your partner is over the **legal age of consent**. You can't always tell how old someone is by looking at them. It is always safest to ask and if you are not sure, to ask for proof of age.

Age of consent by jurisdiction



What happens if someone breaks these laws?

If someone is found guilty of breaking the laws around sex and consent, they may be convicted of a criminal offence. Criminal offences may result in penalties such as fines or jail time and could affect your ability to stay in Australia. A person who has been convicted of a sexual offence against a child may be placed on the Child Protection Offender Register.

Sexual assault is a criminal act reportable to the police and subject to prosecution under the relevant criminal codes, wherever it occurs – at a social occasion, at home, or at work.



000 Where to get help or talk to someone

If you've been sexually assaulted and you want to make a complaint, you should report it to the police as soon as possible. If you are unsafe or it is an emergency call 000. You can also get support from a sexual assault support service, such as 1800RESPECT on 1800 737 732.

Can someone from the PALM scheme help me?

Adjusting to life in another country can be difficult but support and resources are available to help you. If you have questions about adjusting to life in Australia, you can ask your employer. If they don't know the answer, they can tell you who to talk to, including other PALM scheme supports such as:



Country liaison officer (CLO) or labour attachés

You can find all current CLO contact details on the PALM website (<https://www.palmscheme.gov.au/contact>).









PALM scheme support service line on (1800 51 51 31), or email (palm@dewr.gov.au)





Please note the support service line and email inbox are monitored 8:30 am – 6:30 pm AEST - calls after hours should be for critical incidents only.

How can I get more information or confidential professional help?



If you or someone you know wants to find out more information about sex, consent, sexual assault and the services that can support your health and wellbeing while in Australia, you can contact the following key referral support services in the table below. These organisations can help you or point you in the right direction to find a service that is relevant to your needs and accessible to you.

KEY REFERRAL AND SUPPORT SERVICES IN AUSTRALIA		
SERVICE	WHAT DOES IT DO?	CONTACT INFORMATION
Emergency services	Triple zero (000) is Australia's main emergency service number. You should call 000 if you need urgent help from police, fire or ambulance services.	 Phone: 000 Nationwide, 24/7
Local police or ambulance service	If a situation is not urgent, you should look up the number of your local police, fire or ambulance service .	 To find your local police station, search 'Find my local police station in [your area]'.
Health Direct	If you want more information on sex, consent, sexual assault (like how to find and access health, counselling and legal services), visit Health Direct. You can use their service finder to look for help nearest to you.	 Call: 1800 022 222 Nationwide, 24/7  Web: https://www.healthdirect.gov.au/sexual-assault-and-rape
1800RESPECT	If you need to talk to a professional counsellor about sex, sexual assault or domestic violence, this organisation provides a free confidential support line service. You can go to their web page to find services to assist you and information about healthy relationships.	 Phone: 1800 737 732 Nationwide, 24/7  Web: https://www.1800respect.org.au/

KEY REFERRAL AND SUPPORT SERVICES IN AUSTRALIA		
SERVICE	WHAT DOES IT DO?	CONTACT INFORMATION
Reach Out	If you want more information on safe sex, consent and the dangers of sharing intimate images, this organisation has information, a peer-support program and referral tools to helping young people.	 Online information and peer support Nationwide, 24/7 Web: https://au.reachout.com/relationships
Age of consent laws in Australia	If you want to know more about the age of consent laws in Australia, this publication provides information and links to specific state and territory laws.	 Publication: Visit the website, https://aifs.gov.au/resources/resource-sheets/age-consent-laws-australia#
eSafety Commissioner	eSafety helps Australians prevent and deal with harm caused by serious online abuse or illegal and restricted online content. Go to their website to find out how to report image-based abuse, remove content, report to the police etc.	 Visit the website, https://www.esafety.gov.au/young-people/consent-sharing-photos-videos  Fact sheet: How to report harm: https://www.esafety.gov.au/report

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