

Affirmative consent fact sheet



What is consent?

Consent is important for all people and is particularly important when it comes to sexual activity with another person. It means that time and thought has been taken to make sure that everyone involved understands, is enthusiastic, and agrees to the sexual activity that is happening.

This includes ongoing communication about boundaries, contraception and protection, and the type of sex you will be having.

Your boundaries and what you consent to is entirely up to you. It's okay to feel unsure and change your mind.

What are affirmative consent laws?

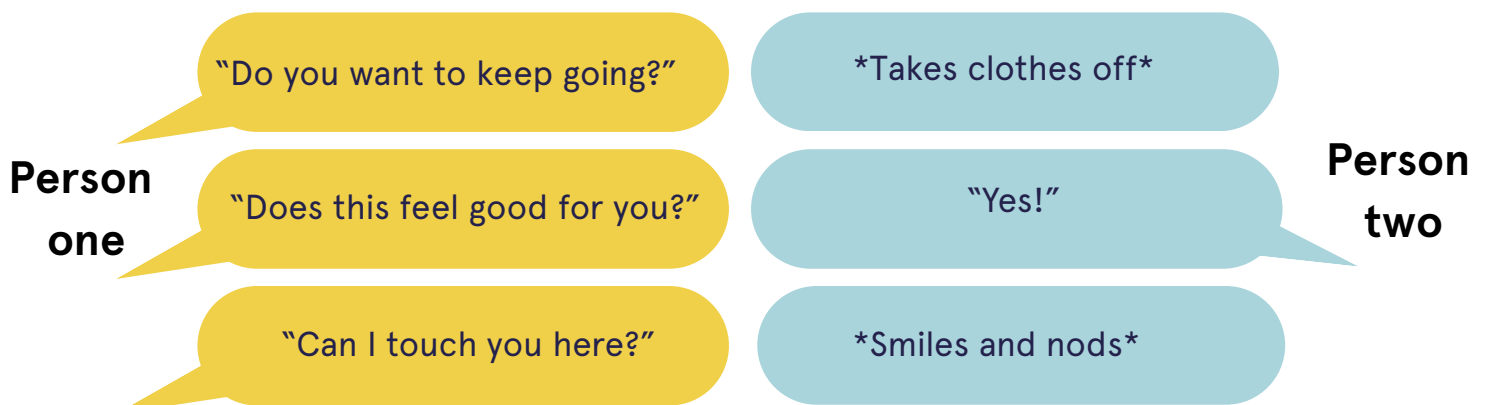
These laws state that everyone is responsible for seeking sexual consent. You can't just assume that something is consensual. The absence of a no isn't consent.

Each person must actively make sure the other person agrees. This information can only be given if clear words or actions are used to show that everyone understands and agrees to what's happening.

It's important to consider verbal and non-verbal signals, which includes body language, facial expressions and words. If you aren't sure, wait for another time.

Remember, you don't have to wait until you're about to have sex to ask for consent. Talking about what you like, how you feel and what you want can happen in everyday conversations!

Affirmative consent



Not consent

- Silence
- "Maybe", "I'm not sure" or "ummm"
- Being below the age of consent
- Being asleep
- Closed off body language or facial expressions (pulling away, not actively participating, crossing arms, avoiding eye contact)
- Stealthing – the removal or tampering of a condom during sex without permission
- Being heavily affected by drugs or alcohol
- Sharing a private image of someone without their consent
- Being confused about what's happening
- Feeling pressured.

How old do you have to be to consent to sex?

11

and younger

You can't legally consent to sex.

12-15

You can legally consent to sex with someone within two years (24 months exactly) of your age.

16-17

You can legally consent to sex with anyone older than 16 if they are not in a position of power over you (such as a teacher or boss). You cannot legally have sex with someone more than 24-months younger than you.

18+

You can legally consent to sex with anyone older than 16.

What about sexting?

Image-Based Abuse

This includes taking, sharing or threatening to share intimate images of someone without their consent. Intimate images are images, photos, or videos which are:

- Nude or partly nude
- Engaged in a private activity (such as showering)
- Someone without attire of religious or cultural significance they would normally wear
- Images that have been altered by AI.

Sexting

Consensually sending and receiving sexual messages including text, photos, videos or sound. This can be a healthy way to express yourself and be intimate with others – however there are lots of things to consider such as your age, boundaries, trust and communication.

The difference between sexting and image-based abuse is consent. Taking and sharing sexual images or videos of someone without their consent is illegal.

Under 18

Sexual images or media of under 18s are considered child sexual abuse material.

People under the age of 18 cannot consent to photos or videos of them being published or shared.

18+

Can consent to their own sexual images or media being shared.

Any age

Creating, sharing or threatening to share intimate images or media without consent is image-based abuse.

Victorian Law may make exceptions for people under 18 who are engaging in consensual sexting. This means you may be able to send or keep sexual images without getting into legal trouble, as long as they are not shared.

How can knowing these laws help me?

The law is there to protect young people can help you to make informed choices that are right for you. There are laws around consent and sex, and there can be serious consequences if you break these laws. You can talk to your local community legal centre if you are worried you might have broken the law, or if someone has harmed you.

Where can I go for more support and information?

- 1800RESPECT: 1800respect.org.au
- GenWest: genwest.org.au
- eSafety: www.esafety.gov.au
- Victoria Legal Aid: legalaids.vic.gov.au
- Youth Law: youthlaw.asn.au
- Your local community legal centre