



Sex and Consent

This fact sheet has information on what sexual activity is, how old you need to be before you can legally engage in sexual activity and what sexual consent means. It also explains the consequences for engaging in sexual activity with someone under the legal age or someone who does not consent.

What is sexual activity?

Sexual activity includes having sex, kissing, touching someone sexually, oral sex, and sexual penetration with any body part or object.

Before you engage in sexual activity with someone, there are two important things to know:

- » one, you must both be old enough to engage in that sexual activity, and
- » two, you must both legally consent.

How old do you need to be before you can legally engage in sexual activity?

In Western Australia, the law says that you must be at least 16 years old before you can engage in any sexual activity.

Sometimes this age changes to 18 years. For example: if there is a special relationship between the people like where one person is a teacher or coach.



Why is age important?

If you engage in sexual activity with someone who is under 16 years old, there can be very big consequences.

Even if they tell you 'yes', it is still against the law.

It is very important that you make sure the other person is 16 before you engage in any sexual activity with them. If you think they are over 16 but are wrong, you may still be breaking the law.

Even if you are both old enough to engage in sexual activity, you must also both consent.

This fact sheet contains information only. It is not legal advice. If you have a legal problem, you should speak to a lawyer. Legal Aid WA aims to provide accurate information but does not accept responsibility if it is not.

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What is consent?

Consent is agreeing to have sex or to engage in a sexual activity.

It may be communicated through words or body language. If someone does not say no, but pushes you away, this is not consent.

Consent must be freely given. You cannot trick, threaten or force someone into saying yes.

Someone cannot consent when they are drunk, asleep or passed out.

Consent can be taken away at any stage. For example: if someone agrees to have sex with you, they can always change their mind at any time and take away consent.

If you continue sexual activity with someone after they have taken away their consent, you are breaking the law.

To make sure you don't do anything wrong, always ask if the other person is okay with what is happening, keep checking and don't put any pressure on them.



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What are the consequences if you engage in sexual activity with someone under the legal age allowed or without consent?

Having sex with someone under the age of 16 or someone who does not consent is sexual assault, and this is a very serious crime.

If you are found guilty, you can go to jail and get a criminal record.

You can also be declared as a reportable offender and be placed on the "sex offender register".

There are no time limits for bringing charges of sexual assault. It can happen years down the track.

How can Legal Aid WA help?

You can find more information on sex and consent on the Legal Aid WA website www.legalaid.wa.gov.au.

If you have been the victim of a sexual assault, you can call the Sexual Assault Resource Centre on 1800 199 888 or the WA police on 131 444 for support.