

IMAGE-BASED ABUSE

It is against the law for someone to share, or threaten to share, an intimate image of you.

If you have experienced image-based abuse it can be hard to talk about what happened. You might be scared about how others will react or worried that you might get into trouble for sharing an image of yourself. Remember that you are not alone and that there are people that can help you.

What is image-based abuse?

Image-based abuse is when someone shares or threatens to share an intimate image of someone else without their consent. It is sometimes called "revenge porn".

What is an intimate image?

An intimate image shows a person in a private situation:

- naked, partially naked, or in their underwear, or
- undressing, bathing, toileting or engaging in sexual activity.

What type of images are included?

An intimate image includes real photos, photo-shopped pictures, videos, stories, drawing and even cartoons. It also includes an image in digital, electronic or printed form.

What if the image was taken in public?

An intimate image is an image taken of someone in a private situation. It is not an image taken in public. For example, a photo of someone at the beach in their bathers, or of a model on a catwalk is not an intimate image.

What does sharing mean?

Examples of sharing an intimate image include:

- posting it on social media,
- uploading it to a website,
- displaying the image in a public place,
- texting, emailing, mailing or giving it to someone, and
- forwarding an image that was first shared by someone else.

What does the law say about image-based abuse?

There are Western Australian and Australian laws that protect people from image-based abuse.

Western Australian laws

Under WA law, it is against the law to share an intimate image of someone without their consent. The maximum penalty is 3 years jail.

It is also against the law to threaten to share an intimate image of someone. The maximum penalty is 18 months jail and a fine of up to \$18,000.

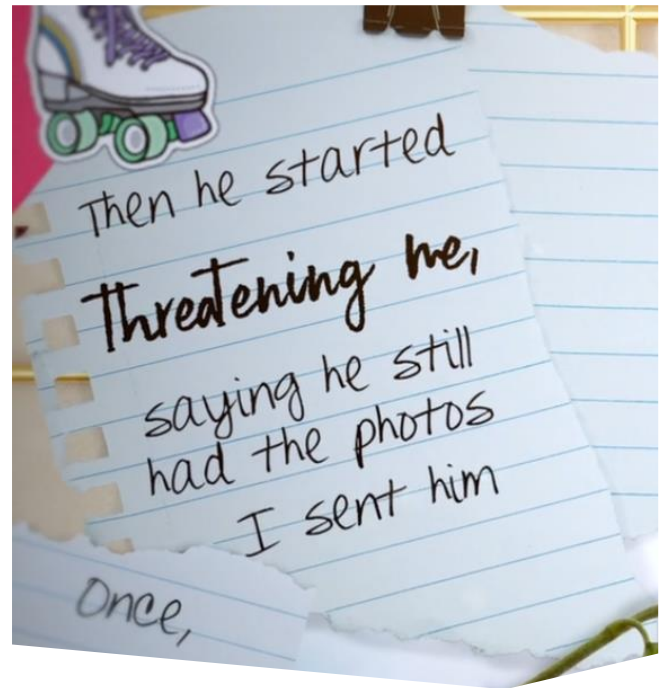
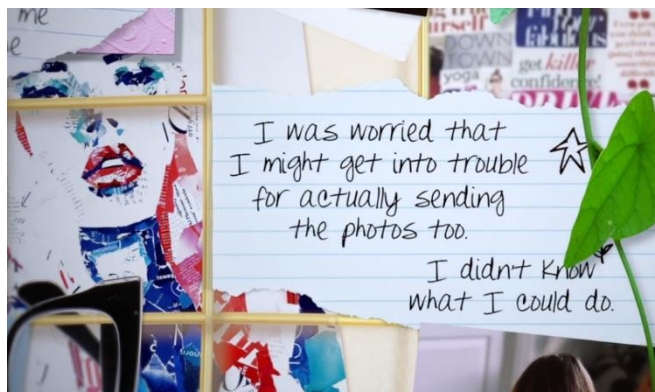
A person can be charged with threatening to share an intimate image of someone else, even if they do not actually have the ability to share the image, or if the image does not really exist. Offering or agreeing to share an intimate image without consent is also against the law.

Australian laws

Under Australia-wide laws, it is against the law to share private sexual material without consent. Private sexual material means the same sorts of things as an intimate image.

It is also against the law to use a phone or the internet to menace, harass or cause offense, with increased penalties for sharing private sexual material in this way.

It is against the law for someone to threaten to share an intimate image of you, even if the image does not actually exist.



What is consent?

Consent is when you agree for something to happen. It must be freely and voluntarily given and can be taken away at any time. Consent is not freely and voluntarily given if someone tricks, threatens or forces you to agree.

I sent a nude to my partner and they sent it to their friends without asking if that was ok.

If you give consent to share an image once, or to particular people, that does not automatically mean it is okay for them to share it again. For example, if you send a nude to your partner, they cannot share that image with anyone else without your consent.

Can a young person consent?

The age of consent in WA is 16, however under Australia-wide laws, **a person under the age of 18 cannot give consent** for an intimate image of themselves to be shared. This is because child pornography laws apply.

Child pornography laws apply to intimate images of young people

It is against the law for anyone to take, keep, share or ask for an intimate image of a young person under the age of 18, even if the image is of themselves (eg a selfie).

There can be very serious legal consequences for young people engaging in this behaviour.

But I said that it was ok...

It is against the law to share an intimate image of a young person who is under the age of 18 even if the person in the image says that it is ok.

Is it ever ok to share an intimate image?

It is not against the law to share an intimate image of yourself if you are over 18, or of another person if they are over 18 and they consent.

It can also be ok to share an intimate image without consent:

- for a genuine scientific, educational or medical purpose,
- for the purpose of legal proceedings,
- for a media activity purpose,
- for law enforcement duties,
- in the administration of justice, or
- in circumstances when a reasonable person would consider the sharing of the image to be acceptable.

You can report image-based abuse to the Office of the eSafety Commissioner.

Getting help

eSafety

You can report image-based abuse to the Office of the eSafety Commissioner. eSafety will work with you and do their best to get material removed as quickly as possible.

In some cases, they can also take action against the person who shared, or threatened to share, an intimate image of you without your consent. For example, by:

- issuing a formal warning
- giving a remedial direction
- issuing an infringement notice
- accepting an enforceable undertaking
- seeking an injunction or civil penalty in court

You can find information about how to make a report on their website www.esafety.gov.au.

Police

You can also report image-based abuse to the police. In some cases, the police may be able to charge the person responsible with a criminal offence. If you are under 18 years old, please seek legal advice before reporting to the police.

Legal Aid WA

Legal Aid WA gives free community legal education on image-based abuse through our R U Legal? program. To find out more visit www.legalaid.wa.gov.au.



Chloe's story

We were together for about 6 months. I sent him some pics, they weren't full nudes but I wasn't wearing much. It was just between us. He promised he'd delete them straight away and I trusted him. I really thought he had deleted them.

Then...we broke up and I started seeing someone else. My ex didn't like that. He started messaging me, saying he loved me and wanted to get back together, but I was clear I didn't want that.

It was pretty over the top, he wouldn't stop. Messages on Snapchat, Instagram, even calls. Then he started threatening me, saying he still had the photos I sent him and that he was going to share them with everyone at school unless I broke up with my current boyfriend.

I was really scared. I didn't know if he actually had the photos or if he was just saying that.

I remembered we had this talk at school from a Legal Aid lawyer. It was about the eSafety office and how you could report stuff like this to them as well as the police. So, I went onto the website and spoke to them.

eSafety got my ex to promise that he wouldn't share the photos and also promise to delete them. It's called an undertaking. And if he keeps harassing me, I can still go to the police.

I'm glad I didn't just put up with my ex's threats and that I did something to stop them.

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