

LET'S TALK about SEX

Sex & Consent Laws in Western Australia

WA has laws to protect us all when it comes to sex and consent.

Do the laws about consent only apply to having sex?

You must have consent for any kind of sexual activity. This includes kissing, touching someone sexually, oral sex and sexual penetration of the vagina or anus with any body part or object.

There are serious consequences for engaging in sexual activity with someone without consent.

What is consent?

Consent is when you agree to something, or say it is okay. You can do this with words or actions.

Consent must be clear and freely given. You cannot pressure someone, or use lies, threats or force to get them to agree. This is not consent.

Someone does not have to say "no" out loud for them to not consent. If someone turns away from you, pushes your hand away or doesn't respond to your touch, this is not consent.

What if you consent to something, and then change your mind?

Consent is not just one question, it's a conversation, and it can be taken back at any time.

If you continue having sex with someone after they have taken away consent, you are breaking the law.

What if you consented in the past, but you don't want to this time?

Consent on one occasion doesn't mean consent on every occasion in the future, you must check every time.

What if you only consent to some things?

Consent to one type of sexual activity doesn't mean consent to all types of sexual activity.

For example if you agree to kissing and touching, that does not mean you are consenting to oral or penetrative sex.

Can you consent if you are under the influence of drugs or alcohol?

To consent to sexual activity, you must be able to understand what you are agreeing to and communicate this clearly to the other person.

If you are under the influence of drugs or alcohol to the extent that you are unable to do these things, then you are too intoxicated to give consent.

Obviously you cannot give consent if you are passed out or asleep.

What if you are under 16 – can you give consent?

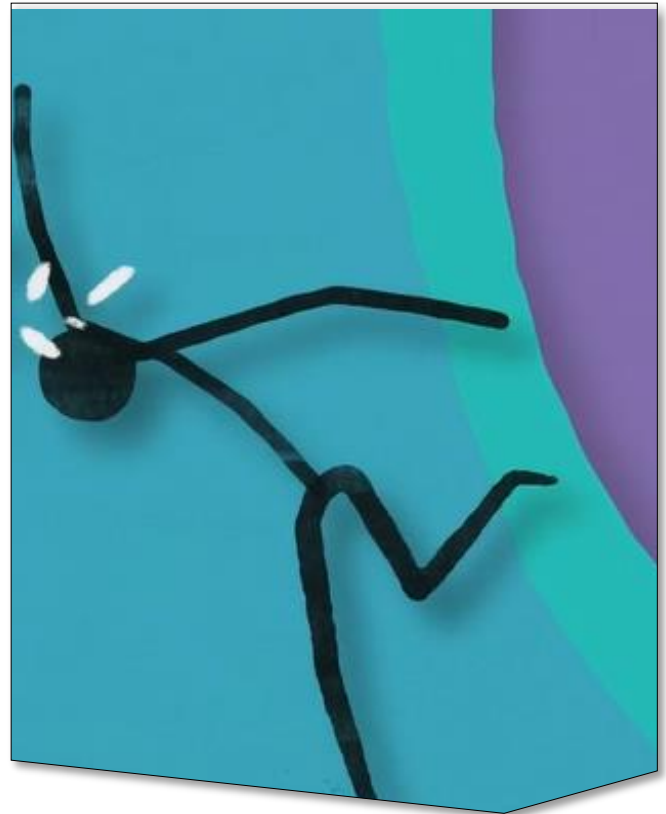
The age you can consent is different around Australia. In WA, you cannot legally consent to sexual activity if you are under the age of 16 years – even if you say “yes”.

It is important to be sure about the other person’s age. If you think they are old enough to give consent and you are wrong, you may still be breaking the law.

What if the age difference between you is less than two years?

In WA it is against the law to engage in sexual activity with someone under the age of 16, regardless of your own age.

In some parts of Australia it is not a crime to have sex with someone who is under 16 if the age difference between you is less than two years. This is not the law in WA.



It is important to be sure about the other person’s age. If you think they are old enough to give consent and you are wrong, you may still be breaking the law.

What if you are both under 16?

If two people under the age of 16 engage in sexual activity, they are both breaking the law and could both be in trouble. The person who is the oldest is the most likely to be charged with a criminal offence. However it is possible both could be charged.

What if you have a special relationship with the other person?

If someone is in a position that gives them power or authority over you, then you must be 18 years of age to give consent to sexual activity with that person. This applies to a relationship with a teacher, coach or guardian.

What can happen if you engage in sexual activity without consent?

If you have sex with someone who does not consent or cannot consent because of their age, you can be charged with sexual penetration without consent (rape).

You can get a criminal record. This is likely to affect your ability to get a job and to travel to other countries.

You can be declared a 'reportable offender' and be placed on the Sex Offender Register for life. This will make it very difficult for you to obtain any kind of employment that involves working with children. There are also very onerous reporting requirements that mean you must let the police know every time you create a new email or social media account, change your address, change the way you look, change jobs or plan to travel.

You can even go to jail.

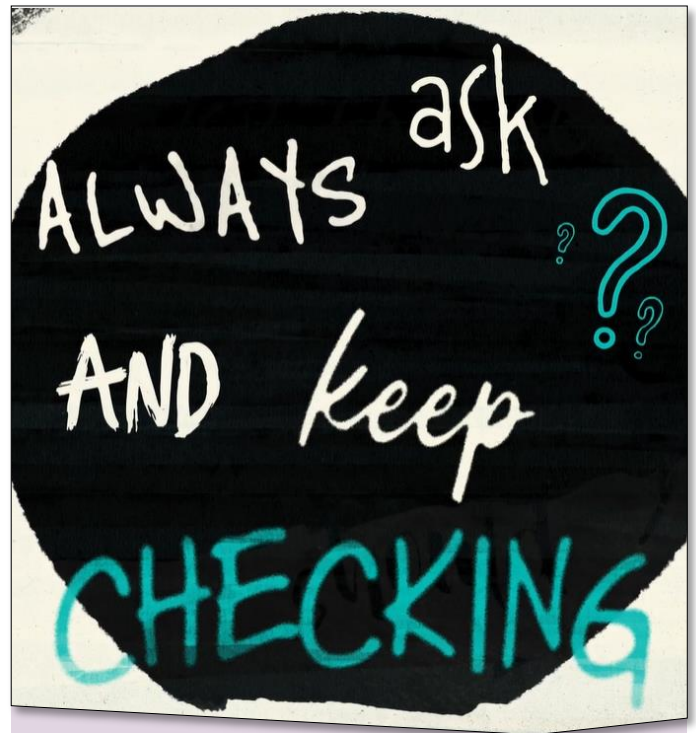
There are no time limits for bringing charges of sexual assault, so it can happen years down the track.



How can you make sure you have consent?

Sex should be between people who are at least 16 years of age or older, and who freely and clearly consent.

If you're not sure, just ask and keep checking that the other person is okay with what you're doing.



Help and Support

If you have been the victim of a sexual assault, you can call the Sexual Assault Resource Centre (SARC) on 1800 199 888. You can telephone this number at any time of the day or night for assistance following a recent sexual assault.

SARC also provide crisis counselling over the phone between 8.30am and 11pm any day of the week. To speak with a SARC counsellor, call (08) 6458 1828.

Police

To report a sexual assault or get support from the police, call 131 444.

Legal Aid WA

If you need legal advice, you can call Legal Aid WA's Infoline on 1300 650 579 or chat to us online at www.legalaid.wa.gov.au.

Legal Aid WA gives free community legal education on sex and consent through our R U Legal? program. To find out more visit our website and click on the "Education and Resources" tab.

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