

Disclaimer: The material in this fact sheet is intended as a general guide only. You should not act on the basis of this information in this fact sheet without first getting legal advice about your own particular situation.

This information sheet details laws in Victoria as at November 2017.

This fact sheet deals with sending messages and taking, keeping or sharing sexual images by phone, email or online. If those messages or images involve child pornography or cyberbullying there can be serious legal consequences.

Sexting or sharing sexual images online

What is sexting?

Sexting is when someone sends a photo or video of themselves or someone else naked or posing in a sexual way using a computer, mobile phone or other mobile advice.

When is it illegal to take, keep or share sexual images?

It is against the law to take, keep or share sexual images by phone, email or online if:

- the image shows child pornography unless you are under 18 and an exception applies (see below);
- you are 18 or over and you are “grooming” (encouraging) someone who is under 16 to engage in an illegal sex act with you; or
- the image is of someone else and you share it or threaten to share it in a way most people would find unacceptable, unless the person in the image is 18 or over and they consent to it being shared in that way.

What makes something child pornography?

Child pornography includes any photo, video, film, publication or computer game that shows a person who is under 18 or who looks under 18 performing a sexual act or posing in an indecent sexual way.

What is ‘indecent’ depends on what most people would find indecent, so that could even include posing in underwear, for example.

What if I am under 18 and I take or keep sexual images of myself or someone else who is under 18?

If you are under 18, it is no longer illegal under Victorian child pornography laws for you to take or keep sexual photos or videos of yourself or someone else who is under 18, as long as:

- nobody in the photo or video is more than 2 years younger than you;
- the photo or video does not show a crime being committed against someone else; and
- you do not share or distribute the photo or video of someone else who is under 18 or threaten to do so (even if they consent).

However, under federal child pornography laws it is still illegal for under 18s to take, keep, share or send sexual images of someone under 18, including images of themselves, by phone or online.

What are the penalties?

If you break the law you can end up with a criminal record. The penalties for child pornography offences, in particular, can be very serious if you are 18 or over. Besides a possible jail term, you must be registered as a sex offender.

What should I do if someone sends me an illegal photo or video?

- DO NOT keep it, forward it on or upload it
- DELETE it immediately, if you can
- BLOCK the person who sent it to you

Getting legal help

Youthlaw

If you are under 25, you can get free and confidential legal advice.

Phone: (03) 9113 9500 (9am-5pm, Mon-Fri)

Website: www.youthlaw.asn.au

Victoria Legal Aid - Legal Help

For legal information, referrals or appointments

Phone: (03) 9269 0120 or 1800 677 402 (country callers)

Website: www.legalaid.vic.gov.au

This page was last updated 17/01/2018