



DISCLAIMER: This fact sheet is intended to be used a general guide only. You should not act on the basis of this fact sheet alone without first getting legal advice about your own particular situation. This was updated in July 2023.

AFFIRMATIVE CONSENT

INCLUDED IN THIS FACT SHEET ARE:

- Where to get help and support
- Why is it important to understand consent
- Age of consent laws
- Meaning of consent
 - Consent
 - Circumstances where there is NO consent
 - Affirmative consent
- Getting Legal Help

WHERE TO GET HELP AND SUPPORT

- POSTER link: <https://youthlaw.asn.au/file-download/12110>

WHY IS IT IMPORTANT TO UNDERSTAND CONSENT

Consent is important to ensure you are able to:

- Maintain healthy relationships
- Make sure everyone is feeling safe, comfortable and respected

It is also important to understand consent as it relates to sexual offences.

AGE OF CONSENT LAWS

The new consent laws will not affect the age of consent laws.

For information on age of consent, please refer to Victoria Legal Aid's website: [Age of consent](#)

MEANING OF CONSENT

The meaning of consent will look different from **30 July 2023**.

What does 'consent' mean?

Consent means 'free and voluntary agreement'. The word 'voluntary' makes it clear that an agreement can't be obtained through coercion, threats or other inappropriate ways.

It is also clear under the law that

- Person does not consent just because they do not resist act
- Person does not consent just because of previous sexual behaviour
- Is ongoing
- Can be withdrawn at anytime

Circumstances where there is NO consent

- Person does not say or do anything as a sign of consent
- Force or fear of force of harm (including physical, psychological, financial)
- Held against their will
- Asleep, unconscious or affected by alcohol/drugs
- Does not understand sexual act
- Tricked about the act or identity of the person
- Withdraws consent
- Coercion or intimidation
- Abuse of a relationship of authority or trust
- False or misleading representation about payment of commercial sexual services
- Stealthing - agreement that a condom will be used, when it is not used

Affirmative consent

The new law will require a person to take 'reasonable steps' to find out if there is consent.

Steps must involve saying or doing something to find out if there is consent.

The steps must be made within a reasonable time before or at the time the act takes place and for every act.

The new law will allow for a narrow exception to the requirement to take active step to address cases where accused person's failure to do this was substantially caused by a cognitive impairment or illness. The exception does not apply where cognitive impairment or mental illness is the effect of self-induced intoxication.

GETTING LEGAL HELP

Youthlaw

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

03 9113 9500

For details of services see: www.youthlaw.asn.au

Victoria Legal Aid – Legal Help

For legal information, referrals or appointments.

1300 792 387

www.legalaid.vic.gov.au

Youth Law Australia

Free information and legal advice for young people under 18.

(02) 9385 9588

www.yla.org.au