Consent



Introduction

Understanding and practicing consent is a fundamental aspect of engaging in respectful and safe interactions with others. Consent is important in all relationships, regardless of gender, sexuality or relationship type. By educating yourself about consent, individuals are better equipped to foster healthy and respectful relationships, ensuring a safer community for all.

> *Consent must be an actively given YES.*
>
> *Having sex or performing any sexual act without consent, from sending unsolicited nude photos to sexual touching or penetrative sex, is sexual assault and is a very serious crime.*

Consent and asking for consent – Make sure it’s a YES!

Under NSW law you must seek consent from someone for any and all sexual activity.

This includes all forms of sex, kissing, hugging/touching, giving or receiving head (oral sex), sending sexual pictures or videos, or anything else that is considered sexual.

Consent should be clear, enthusiastic, and certain. It should sound like:

- Yes!
- That feels great!
- Absolutely!
- I want to keep doing this
- I’d like to try…
- Yes, you can do that
- Yes, I’d like to do that
- Yes, please more!
- OMG yes!
- This is so good!
- Yes, keep touching me there!
- That feels good!
- OMG that feels sooo good!

> *Consent is non-negotiable in sexual situations. This means you MUST have a CLEAR yes from the other person BEFORE you do anything sexual – every time.*

So how do you ask for consent?

Communication is key to good sex. Communicating lets you both explore what you want and what you’re interested in trying, and means you can both easily give feedback if something feels great or if it doesn’t feel good and you want to stop or change something.

It’s important to feel safe and comfortable when it comes to sex or any sexual act. Making sure you have consent from your sexual partner is the most important part of this.

Talk about what you’d like to do and be clear. Everyone has the legal right to choose what they do and don’t want to do in a sexual situation. You can ask:

- ‘Would you like to have sex?’
- ‘Hey, I’d love to kiss you, is that okay?’
- ‘Can I hug you?’
- ‘Do you like this?’
- ‘Can I touch you here?’
- ‘Show me how you would like me to touch you’
- ‘Do you want to have sex?’
- ‘Wanna try reverse cowgirl?’
- ‘What are you in to?’
- ‘Do you want me to take this shirt off?’
- ‘Does this feel good?’

Body language

Consent must be verbal. Body language can be a useful tool to reinforce consent, but cannot be relied on as consent alone.

Some examples of non-verbal cues that may indicate your partner is comfortable with what’s happening include:

- reaching out to touch you in ways that you like
- smiling and making eye contact
- bending their body towards you
- working with you to remove clothing

When people feel threatened, frightened or overwhelmed, they may respond in different ways. Some examples of non-verbal cues that may indicate your partner is uncomfortable include:

- freezing up
- tension in their body
- stillness or lack of response to what you're doing
- bending away from you instead of towards you
- turning their face away or avoiding eye contact

Freezing is a common response to fear and trauma. Someone freezing, becoming quiet, withdrawing, or appearing emotionally disconnected is not consent.

If you think your partner is showing signs of discomfort or hesitation, you need to stop and ask "Hey, are you OK with this? We can stop whenever you want."



Respecting boundaries and checking back in

Be respectful of your sexual partner/s boundaries, they may want to do one thing but not be okay with another – you cannot pressure them into saying yes to doing something. When someone consents under pressure, this is not consent and may be considered a crime such as sexual assault.

Check back in with your sexual partner to make sure they are still feeling great

about what's going on. Consent is an ongoing part of sex.

Consent can change at any time. Someone can change their mind:

- Before sexual activity starts.
- During sexual activity.
- After agreeing to one activity but before another.

When someone changes their mind, all sexual activity must stop immediately.

Remember it's not a 'yes' until it's a 'hell yes!' – 'Maybe' or any uncertain verbal or physical cues around sex means this is a clear NO.

Unsure? Just ask 'do you want to…' or 'are you okay with this?' Let your partner know you can stop at any time.

Someone can change their mind at any time and just because they said yes once doesn't mean that they want to and consent to having sex again.

> *Only YES means YES. Consent must be mutual, freely given, and informed. To consent, the person needs to know what is going to happen, and not be intimidated or pressured into saying 'yes'.*

When it's not consent

Having sex or performing any sexual act without consent, from sending unsolicited nude photos to sexual touching or penetrative sex, is sexual assault and is a very serious crime.

- **Don't assume** someone is giving consent just because they don't say 'no' – this does not mean they are saying 'yes'. Consent must be an actively given YES.
- **Flirting is not consent.** If you believe someone is showing interest in you, or you are showing interest in someone, this does not mean that you have to have sex with them or that they are consenting to having sex with you. You need to ask for clear consent to do something sexual, and if they say no or are indicating that they are no longer interested – then that's a

'NO'.

- **Consent is a conscious decision.** Someone must be conscious and able to make informed decisions to consent. If someone is too intoxicated to properly consent, then it is a NO. Someone who is asleep or passed out is not able to consent, and doing something sexual to someone under these conditions is a very serious crime.
- **If someone changes their mind, even if you have begun having sex**, it means they no longer give consent and continuing to have sex when someone has changed their mind and no longer wants to have sex is sexual assault and is a very serious crime.
- **Consent every time.** Even if you have had sex before, or if you are in a relationship where you frequently have sex or perform sexual acts – you need to get consent every time.

Responding to a no

Consent is about more than asking a question. It's also about respecting the answer, even if it's not the answer you were hoping for. If someone says:

- "No."
- "Not right now."
- "I'm not sure."
- "I'd rather not."

These responses should always be respected. Respecting someone's decision means:

- Listening to what they say.
- Accepting their answer the first time.
- Not repeatedly asking or trying to persuade them.
- Not making them feel guilty.
- Not becoming angry or upset

It's normal to feel disappointed, embarrassed, confused or upset if someone says no. However, those feelings are your responsibility to manage. They are not a

reason to pressure someone, argue with them or try to change their mind. A respectful response might be:

- “Thanks for telling me.”
- “That’s okay.”
- “No problem.”
- “Let’s do something else.”

What is the difference between sex and a sexual act?

Sex or sexual intercourse is defined as ‘any penetration of a person’s genitalia or anus by any part of the body of another person or any object, or any kind of oral sex’.

But a sexual act is broader and can include things like:

- Penetrative sex – when a person puts their penis, fingers or another object inside another person’s vagina or anus.
- Oral sex – a person using their mouth to touch another person’s genitalia, breasts, or anus.
- Sexual acts that involve touching – like touching someone’s genitals, anus, or breasts over the clothes or under the clothes. For example, stroking, grabbing, hand jobs or fingering, and kissing
- Sexual acts that don’t involve touching – like masturbating in front of another person, sending or receiving sexual pictures or videos (nudes or sexting), or encouraging a person to do a sexual act.
- **All of these things are considered sexual acts.**

Digital Consent

Consent matters online as well as in person. Digital consent means respecting a person’s choices, privacy and boundaries when using technology, social media, messaging apps, or sharing photos and videos.

Consent is needed for:

- Sending or receiving sexual or intimate images.
- Taking photos or videos of someone.
- Recording sexual activity.
- Sharing messages, images or videos with other people.
- Posting content online or on social media.

A person may agree to send an intimate image to someone, but that does not mean they agree for it to be shown, shared, saved, screenshot, recorded or sent to anyone else.

Everyone has the right to:

- Say no to sending intimate images.
- Change their mind.
- Ask for content to be deleted.
- Decide who can see photos, videos or personal information about them.
- Block, mute or stop communicating with people who make them uncomfortable.

What is sexual assault?

Sexual assault is any kind of sexual act that you don't agree to. Sexual assault is when someone forces, threatens, tricks, or manipulates you into doing something sexual when you don't want to, if you don't give consent, or are unable to give consent (like if you are affected by alcohol or drugs or you are asleep). Sexual violence is most commonly perpetrated by someone known to the victim/survivor.

In NSW it is a crime for someone to:

- Have sexual intercourse (which includes any penetration of the anus or female genitalia) with you, without your consent.
- Sexually touch you or force you to sexually touch another person, without your consent.
- Do some other kind of sexual act with or towards you, without your consent.

> *The age when someone can legally consent to doing something sexual is 16 years old. If you are under 16 you cannot legally consent to doing something sexual.*

It is against the law for a person over the age of 16 to have sex or behave in a sexual way towards someone under the age of 16. The crimes covered in these laws include:

- Having sexual intercourse with a child or young person who is under the age of 16.
- Attempting to have sexual intercourse with a child or young person who is under the age of 16.
- Sexually touching or undertaking any sexual act with a young person who is under the age of 16.
- Grooming a child or young person who is under 16 – this might include showing sexual pictures or images, telling sexual stories, giving alcohol or drugs or paying money to try and make it easier to do sexual activity with that young person.

These are very serious crimes.

A person over the age of 16 cannot have any sexual interaction with someone under the age of 16, because that young person is not legally able to consent.

Consent is not a defence to these crimes unless the similar age defence applies. For more information about this defence, see Youth Law Australia's page on sex.

If you have experienced sexual assault

If you have experienced a sexual act you didn't consent to, or you withdrew your consent but the person kept going – that is sexual assault and is a serious crime.

Sexual assault can happen to anyone of any gender and can happen at any age, including when you were a child/younger than you are now. Sexual violence towards children is most often perpetrated by an adult known to a child such as a family member, teacher, sporting coach or someone else with authority in the community. It can also be perpetrated by another child or young person, such as a

sibling or friend.

If you think you may have experienced sexual assault, it can be hard to talk about, and you have a right to care and support. People respond to sexual assault in different ways. Some people seek help immediately, while others may take months or years before talking about what happened. There is no “right” way to react. Support is available whenever you are ready.

We encourage you to speak to someone when you feel able to. You can speak to a youth worker, a doctor, a friend you trust or an adult you trust. In NSW, you are able to receive sexual assault support through a network of specialist Sexual Assault Services (SAS) delivered by local health districts. Every local health district has an Sexual Assault Service that operates 24 hours a day, seven days a week.

You can also speak anonymously to safe and supportive services that are trained in helping people who have or may have been sexually assaulted.

If you’re worried about a friend who discloses a sexual assault incident to you:

- Help them connect with support services if they want to.
- Listen without judgement.
- Believe what they tell you.
- Ask what support they want.
- Respect their choices.
- Share any safety concerns with a trusted adult

Resources

You can contact any of these help lines to speak privately to someone who is trained in supporting victims of sexual assault:

- NSW Sexual Violence Helpline **1800 424 017** For anyone in NSW impacted by sexual assault (including friends, families and supporters). Available 24/7.
- LGBTIQ+ **The Rainbow Sexual, Domestic and Family Violence**

Helpline 1800 497 212

- 1800RESPECT(1800 737 732) for 24 hour free and confidential support or you can chat to them online.
- NSW Health Sexual Assault Support NSW Health has a network of specialist Sexual Assault Services (SAS) that operates 24 hours a day, seven days a week.
- Youth Law Australia
- Reach Out
- Esafety commissioner