

SEX & CONSENT

YOUTH LAW CENTRE ACT



Legal help for young people

Legal Aid ACT's Youth Law Centre can help you if you have questions about sex and consent laws in the ACT or if you have been charged with a sexual offence. We can also help you if you are the victim of a sex crime. We can help you by:

- Giving you information and legal advice about sex and consent laws in the ACT.
- Representing you in Court if you have been charged with a sex crime.
- Referrals to non-legal support services such as counsellors or government services.
- Giving you information about reporting a sexual offence to the police.

Our Youth Law Centre is a free and confidential legal service for young people aged 12 to 25 years in the ACT. See the back of the factsheet for our contact details.

What is the legal definition of sex?

Sexual intercourse means any penetration of the vagina or anus of a person by any part of the body of another person or by an object controlled by another person, unless done for proper medical purposes. It also includes oral sex.

When can I legally have sex?

In the ACT it is legal for a person to have sex if:

- Both people are over the age of 16 years;
- Both people freely consent to the experience; and
- They are not family members.

But, if you are over 16 and the other person is in a position of care or authority over you, it is illegal for them to have sex with you. E.g. Your sports coaches, counselors and teachers cannot legally have sex with you, even if you 'consent.'

What is 'consent'?

Consent must be given freely and willingly. Some examples of where consent may **not** be given freely include:

- If the person feels threatened;
- If the person is under the effect of alcohol or drugs or otherwise incapacitated;
- If the person has any mental incapacity to understand the nature of the act or physical helplessness;
- If someone agrees to have sex and you agree that a condom will be used, and then the other person removes the condom without the consent of the other person.

These are just *some* examples of where sex may not be consensual, even if someone appears to be 'going along' with it. **Consent does not mean that 'they didn't say no,' It means that they willingly and freely said 'yes.'** If someone has sex because they are feeling pressured, scared or too intoxicated to understand what was going on or to say 'no', there may be issues with consent.

It is important to remember that **consent can be withdrawn at any time.** This means that if you are having sex with someone (with their consent) and then they change their mind and ask you to stop, they have withdrawn their consent. Consent can be withdrawn sex. If you do not stop and you continue with the sexual act against their wishes, you will be committing a very serious offence. To avoid this, you should not have sex with someone if they are too drunk or drug affected. You should ask each other if you feel completely comfortable with having sex and never pressure someone into having sex with you. If you are having sex with someone and they ask you to stop, you should stop immediately, even if earlier they said they wanted to have sex.

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What can I do if I am the victim of a sexual offence? - Report to Police

Having sex with someone without their consent is a very serious crime. If you think you have been the victim of a sexual offence, you can report this offence to the police. In the ACT, there is a special unit within ACT Policing called the **Sexual Assault and Child Abuse Team** ('SACAT'). SACAT is specially trained to deal with sexual offences and they can take your statement and investigate any allegation of sexual assault. This may result in the offender being charged committing a crime.

Call 131 444 and ask to be put through to SACAT.

The Youth Law Centre can give you free and confidential advice about what to expect when reporting a sex crime to the police. The Youth Law Centre can also link you in with free services to support you in reporting to the police.

Reporting to police is a decision for you to make. If you do not know whether or not you want to report to the police, you may wish to speak to The Youth Law Centre or a support service first such as the Canberra Rape Crisis Centre or Victim Support ACT. They can help you to consider all your options and support you through any process you choose to pursue.

What can I do if I am the victim of a sexual offence? - Health Care

You can also attend the Canberra Hospital or the Calvary Hospital for medical treatment and/or to undergo forensic testing. Both these hospitals provide support for all victims of sexual assaults and can give you emergency treatment. They can provide you with preventative medical care against HIV, STI's and unwanted pregnancy. They can facilitate forensic testing to provide to the police if you wish to make a report. To ensure the testing is as effective as possible, do not shower, drink any fluids, smoke or change your clothes following an assault, as this may affect the forensic results.

What can I do if I am the victim of a sexual offence? - Other legal options

If you are scared that the person who assaulted might hurt you again, you can get free help to apply for a Protection Order against that person. A Protection Order can stop that person from coming near you or contacting you. Legal Aid's ACT Family Violence and Personal Protection lawyers can help anyone apply for a PPO or FVO for free. You do not have to report an incident to the police to have grounds to apply for a PPO or FVO. Legal Aid ACT can also help refer you to other services for support.

Phone: 1300 654 314 or drop in to our office at the Magistrates Court from 9am on weekdays.

Or you can contact **Legal Aid ACT's Youth Law Centre**: Phone: (02) 6173 5410
Email: ylc@legalaidact.org.au.

Legal Aid's College Legal Liaison Officers

If your school or college has a Legal Liaison Officer, you can also request a free and confidential appointment with them at their school office or by telephone. Email college@legalaidact.org.au to make an appointment or drop in to their office.

Support and Counselling

The Canberra Rape Crisis Centre

The Canberra Rape Crisis Centre is a free support service. They support any person who has experienced sexual violence. They can provide free counselling and support you by attending appointments with you that may be related to the assault. There might include appointments with police, doctors or lawyers. They can also just be someone to talk to. They are a 24 hour service.

Phone: 6247 2525 or Text: 0488 586 518

Victim Support ACT

Victims Support can provide non legal support to people who have experience crime. They can support you to report a crime and link you in with other free services.

Phone: 6205 2222

Em: victimsupport@act.gov.au