



Abuse, Rights and the Law

Learning intentions:

- Students review different forms of abuse/violence including sexual, physical, verbal and psychological.
- Students learn about laws related to sexual relationships with minors, sexting and protection from family violence and child abuse

Equipment/materials:

- Handout: The Law Fact Cards- One item per group

Method:

1. Introduce the learning intentions
2. Provide a trigger warning.

For example: Today we are going to discuss something that is a very real issue, but it can be difficult to talk about. The topic we are looking at will include material on child abuse, and this includes sexual abuse and family violence. There is no obligation to participate in activities that cause stress, or bring up emotions that are difficult to manage. If you would like to take some time out, or prefer to take only a small role in the activities, that is okay. You may also wish to talk to me after class, leave a note, or arrange a visit with the school counsellor if this topic brings up things that are troubling for you.

3. Ask students what they think is meant by the term child abuse. Collect their answers.
4. Supplement their input using the following definition of child abuse.

Child abuse is can be divided into different types. People who experience one type of abuse may also be experiencing another type as well.

1. Physical abuse (e.g. violence or hurting the body);
2. Emotional abuse (making people feel very afraid or ashamed of who they are)
3. Neglect (not looking after the basic needs of housing, food, cleanliness, access to medical help and access to schooling)
4. Sexual abuse (forcing or tricking or leading someone into having sex, and adults having sex with people under the legal age for consent)
5. Exposure to family violence (being around and witnessing violence in the home, such as violence against mother or siblings).

Abuse of children and young people is against the law. Everyone has the right to be safe and be protected from abuse.

5. Explain that they are about to review some of the commonly asked questions that people have about abuse, and to learn about some of the laws that are in place to help protect children and young people against abuse.
6. Assign each group one of The Law Fact Cards. Each group has a key question. They will need to look at their question and the accompanying information, and work together to make sure they understand the answer. A representative or two will be asked to share the summary with the class.
7. Invite students to nominate which of the information sets they think are the most important for students around their age to know about.
8. Follow on with a **Resilience, Rights and Respectful Relationships-Help Seeking Activity** to assist students to understand how to gain assistance if they find themselves in one of these situations <https://fuse.education.vic.gov.au/ResourcePackage/ByPin?pin=2JZX4R>.

SEXTING

QUESTION: Is there a law about sexting?

ANSWER: Yes. There are laws about sexting.

Sexting is using a phone or the internet to send, receive or share nude or sexual photos or videos (including selfies).

There are laws against inviting, creating and possessing any film, audio, photo, publication, image, computer game, text or electronic material that shows someone under 18, or someone who looks under 18, in a sexual activity or posing in a sexually inappropriate way. This can include sexually inappropriate poses with clothes on.

In the law, these things are referred to as child pornography.

In Victoria there are defences to these laws for young people. This means that there are some different rules for young people under 18.

If a person is under 18:

- They will not break Victorian law if they take, keep or send a sext of themselves.
- They will not break Victorian law if they take, keep or get a sext of someone else who is under 18 if:
 - nobody in the sext is more than two years (24 months) younger than them; and
 - the sext does not show any crimes being committed (e.g., sexual assault).

There are important rules about sharing sexts.

In Victoria, it is against the law for everyone including people under 18:

- To send on, share or post a sexy picture of someone else who is under 18, even if they consent to this. Under the law this is called distributing an intimate image and there are serious penalties for this.
- To threaten to distribute (share) an intimate image.

If a person has an image on their device and they turn 18 the law will treat them as an adult and they can be charged with child pornography offences even if they had the image before well before turning 18.

There is no absolutely safe way to send a sext. Who sees a sext once it is sent or posted cannot be controlled, and if anyone in the picture is under 18 people can get into legal trouble.

Even if apps such as Snapchat, that delete the image after a certain time, are used, a person can't control what happens to the images. For example, someone who sees an image before it is deleted may take a screen shot of it.

The best way to stay safe is: don't take, send or keep a sexy photo or video or text of anyone under 18. Delete it immediately.

If worried about an image that's already out there, talk to a school counsellor or a trusted adult. They may be able to help to resolve the problem before it gets too serious. Getting help from a trusted adult could help to avoid a situation where the police get involved.

Reference: Crimes Act, Authorised Version No. 229A (1958).

CONSENT

QUESTION: Is there a law about the age at which someone can consent or agree to have sexual intercourse?

ANSWER: Yes. There are laws about consent. Age differences are part of the law about consent.

The under 12 years of age law

Children under 12 years of age can never consent to sex.

The 12-15 years of age law (the 24 months rule)

Young people aged 12-15 can only consent to have sex with someone who is within 2 years of their age (i.e. not more than 2 years (24 months) older than them).

The 16-17 years of age law

Young people who are aged 16 to 17 can consent to have sex with someone who is the same age as them, or someone older. They can have consensual sex (that is both people consenting) with someone younger only if that person is not more than 2 years (24 months) younger than them.

They cannot consent to having sex with a person in a position of care or authority over them, for example a teacher, student teacher, coach, tutor, doctor, counsellor.

A teacher or other school staff member cannot have sex with a student even if the student is 18 because this is a breach of their professional duty to care for students.

Someone cannot consent to sex if:

- they are asleep
- affected by alcohol/drugs
- don't understand
- think they'll get hurt if they don't say yes
- think they are with someone else (e.g. are tricked into thinking the person is a different age)
- don't say/do anything to show consent; or
- if they change their mind.

Reference: Crimes Act (1958)

RAPE

QUESTION: Is rape against the law?

ANSWER: Yes. Rape is against the law.

In the law, rape means to sexually penetrate another person without their consent. Sexually penetrating includes putting any part of the penis in the vagina, anus or mouth of another person or putting any body part (e.g. finger, tongue) or object into someone's vagina, or anus without their permission or consent **(there are rules about at what age young people can give consent).**

Rape also includes when someone makes another person sexually penetrate that person, sexually penetrate themselves or sexually penetrate another person.

Reference: Crimes Act (1958)

SEXUAL ASSAULT

QUESTION: Are there laws against sexual assault?

ANSWER: Yes. Sexual assault is against the law.

It is against the law to intentionally touch someone in a sexual way without their consent or without a reasonable belief that they did consent **(there are rules about at what age young people can give consent).**

A belief by the person doing the touching that the touching wasn't sexual is not a defence or an acceptable excuse.

It is against the law for a person to make someone else touch them, make a person touch themselves, or make a person touch someone else, in a sexual way:

- without their consent; and
- without having a reasonable belief that the other person is consenting **(there are rules about at what age young people can give consent).**

Reference: Crimes Act (1958)

ADULT SEXUAL ABUSE OF CHILDREN

QUESTION: Are there laws against adults having sexual contact with children?

ANSWER: Yes: It is against the law for adults to have sexual contact with children, even if the child agrees.

It is against the law for a person 18 years and over to have sexual contact with anyone under the age of 16 even if the person consents to the contact.

If an adult who is in a position of care over a 16 or 17-year-old has sexual contact with a 16 or 17 year old it is sexual assault even if that young person consented to the contact.

Reference: Crimes Act (1958)

INCEST

QUESTION: Are there laws against parents, step-parents and grandparents engaging in sexual activities with their children/step-children/grandchildren?

ANSWER: Yes. It is against the law for parents, step-parents and grandparents to sexually penetrate – that is put any part of a penis into the vagina, anus or mouth of their child or grandchild. It is also against the law to put any part of an object or another part of the body, for example finger or tongue into the vagina or anus of their child or grandchild. This is called incest.

It is also against the law for a sibling to do this to another sibling. Young people under the age of 18 who do this to family members also need help to learn to stop this behaviour.

Reference: Crimes Act (1958)

GROOMING

QUESTION: Is there a law against grooming?

ANSWER: Yes. Grooming is against the law.

Grooming is when a person does things to build emotional trust in a child in order to sexually abuse or exploit them. Grooming can involve showing someone lots of positive attention or giving them gifts to establish a relationship or other emotional connection with the child or their parent/carer. Grooming can happen online or face to face.

It is against the law for a person aged over 18 to groom a child aged under 16 with the intention of sexually abusing or exploiting them. There are laws that ban the use of computers or phones for grooming children and young people to engage in sexual activities.

Reference: *Crimes Amendment (Grooming) Act 2014*

SEXUAL HARASSMENT

QUESTION: Is sexual harassment against the law?

ANSWER: Yes. Sexual harassment is against the law.

Sexual harassment is when someone makes unwelcome sexual advances or requests, or other behaviour of a sexual nature towards another person, and it is reasonable that the other person would be offended, humiliated or intimidated by the behaviour.

It can include:

- saying sexual things to a person,
- making sexual gestures to a person
- sexual name calling
- sexual jokes
- continuing to ask someone out when they have said they are not interested
- unwanted sexual comments or requests in writing or pictures online or via social media

The sexual harassment has to happen in, or be related to, areas of public life, such as at school or at work.

In schools, it is against the law for a teacher or staff member to sexually harass a student. It is also against the law for a student to sexually harass another student, a teacher or a staff member at a school.

A young person who is being sexually harassed should seek help from a trusted person within the school, from a parent or from KidsHelpline. A person who is being sexually harassed can also complain to the Victorian Equal Opportunity and Human Rights Commission or the Australian Human Rights Commission.

In some cases, sexual harassment could also be a crime. A criminal sexual offence can include inappropriate touching, physical or indecent assault, stalking, making nuisance phone calls or the sending of obscene images, words or video using mail, email or the internet.

Reference: Commonwealth Sex Discrimination Act 1984; Victorian Equal Opportunity Act 2010; Crimes Act (1958).

FAMILY VIOLENCE

QUESTION: Is there a law to protect children against violence at home?

ANSWER: Yes. There are laws to protect children from child abuse (violence or neglect in the home).

It is against the law to act in a way that puts a child's physical or emotional health in danger.

For example, it is illegal to hit, or to be emotionally or physically cruel to a child, or for parents/carers to fail to provide for their basic food, medicine, education or safety needs.

It is also illegal to allow a child to witness family violence.

Reference: Family Violence Protection Act (2008)

QUESTION: What is a family violence intervention order?

ANSWER: A family violence intervention order is used when there has been family violence. A family member (or police or other adult) asks the Magistrates' Court for an order against the family member who has been violent.

A family violence intervention order can be used to ban the violent person from things like:

- Violence against the protected person
- Approaching (or going near) a protected person
- Going to places where the protected person lives, works, studies or spends time
- Following the protected person
- Contacting or communicating with the protected person
- Damaging the property of the protected person

Breaking a family violence intervention order is against the law.

Reference: Family Violence Protection Act (2008)