

When can I?

Years 10-12

NSW

Module [1/1]

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Activity

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What is the purpose of the law?



Why do we have laws in Australia?

- To uphold “good order” of society, e.g. some driving laws - known as **Criminal Law**
- To protect relationships between different groups of people, e.g. doctor-patient - known as **Civil Law**
- To outline the role and powers of the Government – known as **Administrative Law**
- There are also policies and other documents we may have to follow in specific settings e.g. Workplace Health and Safety at work

Criminal law and civil law

| Criminal law | Civil law |
|---|---|
| Between the state and a person | Between two people (e.g. suing people) |
| Court trial with penalties such as fines, jail time, cautions etc | Court trial with penalties such as financial compensation or enforcement of contracts etc |
| Police investigation | Lawyers will gather and present evidence on both sides |
| Very high standard of proof (“Beyond reasonable doubt”) | Lower standard of proof (“Balance of probabilities”) |
| Common examples are drug laws, sexual crimes, assault etc | Common examples are negligence, defamation, contracts etc |

Discussion

What is law reform and its purpose



Law reform

- Law reform involves evaluating current laws and advocating for change.
- Law reform is an important mechanism for achieving justice and reflecting society and its values

| Types of changes | Definition |
|---------------------|--|
| Amend | In this case, changes are made to pre-existing laws e.g. to change their wording, delete certain parts or include new phrases. |
| Introduce/ enact | In this case, a new law may be developed, or a new piece of legislation created. |
| Abolish/ repeal | In this case, a law or a piece of legislation ceases to exist. |

What is sexting?

Sexting is the sharing of intimate or sexual communications (e.g. sending nudes). It includes photos, videos or texts (even if they are drawn or photoshopped). Sexting generally refers to behaviour where both people have agreed to send or receive the communications. In other words, sexting refers to **consensual** behavior.

Technically, underage sexting could be considered child pornography or child abuse material. Child pornography includes sexual photos/videos or texts of a child:

- posing sexually; or
- participating in a sexual act; or
- being in the presence of someone posing sexually or participating in a sexual act).

It also includes photos, videos or text that describes a child's private parts (e.g. genitals or breasts).

Source: section s 91FB Crimes Act 1900 (NSW), s 473.1 Criminal Code Act 1995 (Cth)

What the law says

There are two laws that can apply in NSW:

1. In NSW it is illegal to make, share, request or possess material that could be considered “child abuse material”. A child is considered to be anyone **under the age of 16**, or someone that **appears to be under 16** due to the circumstances (e.g. if they are wearing a school uniform).
2. Throughout Australia, it is illegal to make, share, request or possess material that could be considered “child pornography material”. A child is considered to be anyone **under the age of 18**, or someone that **appears to be under 18** due to the circumstances.

Because both NSW and national laws apply, it is risky to send a nude when you are under 18. It is also risk to save a nude, especially because once you turn 18, you could be found guilty of child pornography if you have old photos in your possession.

There are exceptions that apply in NSW if:

1. You take a photo of yourself alone and you are under 18. You won't get into trouble for making, sharing or keeping this photo; OR
2. You receive a sext from someone without asking for it and you immediately delete it.

Because both NSW and national laws apply, it is risky to send a nude when you are under 18. It is also risk to save a nude, especially because once you turn 18, you could be found guilty of child pornography if you have old photos in your possession.

Source: s 91HA Crimes Act 1900 (NSW) , s 473.1 Criminal Code Act 1995 (Cth)

Leaving home

- The law does not say when a young person can move out of home. Generally, young people are expected to live at home until they are at least 18 because their parents have a legal responsibility to look after them until then.
- If a young person has permission from their parents to leave and a safe and stable place to go, then there's no reason for the authorities (like the police or child protection services) to get involved.
- From a practical perspective, moving out of home can be difficult as young people will need to consider schooling, work, financial support, finding a safe place to live etc.

Age of consent

The age of consent is the legal age a person must be before the law says they can consent to have sex with another person. In NSW, the age of consent is **16 years old**. This age is raised to 18 years old if the older person is in a position of supervision over the younger person.

Source: section s 66A, s 66C Crimes Act 1900 (NSW)

There are some situations when an older teenager having sex with someone over 14 cannot be successfully prosecuted for breaking the age of consent laws. If a person is older than 14, they can legally consent to have sex with another person who is *less than two years older than them (in other words, the person is not more than 729 days older)*.

BUT since the law in this area can be complicated to apply, it is always risky to have sex with another person who is under the age of consent.

See the [Youth Law Australia page on sex](#) for more information.

Source: section s 80AG Crimes Act 1900 (NSW)

Signing contracts

- A contract is legal exchange of promises. It involves someone making an offer to another person, which they accept. Both parties will receive something of value from the exchange and agree to do certain things in return.
- Generally young people can enter contracts *if they are for their benefit AND they understand the nature of what they are agreeing to do.*
- Sometimes an adult might also sign the contract and promise to fulfil the obligations if the young person is unable to (e.g. agreeing to pay rent).

Class Activity

Activity



Class Activity

In small groups, select one of the areas of law we have covered today and prepare a webpage explaining this area of the law





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Summary

- There are two main types of law that govern society – criminal law and civil law
- Criminal laws govern the good order of society
- Civil laws outline standards of relationships between people
- Sometimes laws will change to better reflect society's values
- Examples of criminal laws that might impact young people include sexting and age of consent
- Examples of civil laws that might impact young people include contract law

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