

## Overview

Sexting (a combination of the words 'sex' and 'texting') is the **'digital recording of nude or sexually suggestive or explicit images and their distribution by mobile phone messaging or through social networking'** (Australian Institute of Criminology, [Sexting among young people: Perceptions and Practice](#). Accessed 7 July 2016). The term 'sexually explicit' can mean different things to different people, but is generally described as an image designed to initiate sexual excitement for the person receiving the image.

Fifty per cent of Australian 13-18 year olds have sexted, however the vast majority of those who reported sending or receiving sexually suggestive images did so with only a small number of people and most commonly only with those they already had a romantic attachment<sup>1</sup>.

Young people may use sexting to express their sexuality and it is becoming a common way for people in relationships to express their feelings and desires. However, it can raise issues of consent, privacy, harassment and legality and it is important for young people to realise the potential negative consequences of sexting. Providing support and effective strategies to this agegroup is essential to minimise any harm that may result from sending sexts.

## Legal issues

### Taking sexually explicit photos of youth under 16

It is an offence under the Western Australia Criminal Code to take a sexually explicit photograph or image of a person under the age of 16 years. It is also an offence to encourage persons under the age of 16 to take sexually explicit photos of themselves.

The penalty for these types of child pornography offences is up to a maximum of 10 years imprisonment.

### Possession or distribution of photos of youth under 18

It is also an offence under the Commonwealth Criminal Code to possess or send a sexually explicit photograph/image of a person under the age of 18 years.

Young people (under 18 years) could be charged for taking or sending a photo or video of someone under 18 years, even if all people involved provide consent. Penalties can be severe, with up to 15 years in jail and placement on the sex offenders register.

### A person can be charged with a criminal offence if:

- They take a nude, semi-nude or sexually explicit photo of a person under the age of 18, even if the person agrees to the photo being taken or the photo is taken of him/herself.

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- They take a photo or a video of a person under the age of 18 involved in sexual activity or posing in an indecent sexual manner, even if it is of him/herself.
- They are found to have this kind of photo or video on their phone or other device, e.g. PC, iPod.
- They forward this kind of photo or video onto others.

## Psychological consequences

As well as the legal implications, sexting can have psychological consequences. The media has reported many cases where young people have been harassed or bullied because they sent someone a sext of themselves, which was then sent to other people without their permission. This type of bullying and harassment can lead to depression and, in some cases, suicide.

## Relevant resources

### *Fact sheets/booklets/videos*

[Sending nudes and sexting](#), [Your digital reputation](#), [Image-based abuse](#) - Office of the Children's eSafety Commissioner

*Includes the e-book for teenagers [So you got naked online](#).*

[ThinkuKnow Teacher's Toolkit](#) on sharing personal sexual content

### Tagged

*A video which encourages young people to reflect on the real life consequences of cyberbullying, sexting and a negative digital reputation.*

[Sexting](#), Get the Facts

[Respect Me. Don't Sext Me](#), SECASA

*Teacher resources for use with secondary students about issues related to sexting.*

[Safe Sexting](#), The Line

[Selfies and Sexting](#), Legal Aid WA

[Sexting](#), Youth Law Australia

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### References

1. Lee, M. T. Crofts, A. McGovern and S. Milivojevic. *Sexting among young people: Perceptions and practices.* Australian Institute of Criminology, 2015.

### Postscript

**This Background Note relates to the following Learning Activities:**

- [Sexting](#)
- [Sexting: To send or not to send](#)
  
- [Is sexting a bad thing?](#)
- [When is an image classed as being sexually explicit?](#)

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