

August 2010

# Am I old enough?

Common legal issues for young people

This booklet covers  
what you can and can't  
do because of your age



**Victoria  
Legal Aid**

Lawyers And  
Legal Services

# Am I old enough?

Common legal issues for young people

## Do you need this booklet in a different format?

Please ring us on 9269 0223 so we can talk with you about what you need.

## Produced by Victoria Legal Aid

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## Changes to the law

The law changes all the time. To check for changes you can:

- call the Victoria Legal Aid Legal Information Service on 9269 0120 or 1800 677 402 (country callers)
- read the 'new law' section on the Victoria Legal Aid website at [www.legalaid.vic.gov.au/583.htm](http://www.legalaid.vic.gov.au/583.htm)
- contact a community legal centre. Call the Federation of Community Legal Centres on 9652 1500 to find your nearest community legal centre.

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## About this booklet

This booklet is about common legal issues for young people in Victoria. It covers what you can and can't do in Victoria because of your age. It has general information. It shouldn't be used instead of legal advice.

The law can be different in other states. To check, [see](#) [www.nla.aust.net.au](http://www.nla.aust.net.au) for contact details of legal aid commissions around Australia.

### Getting more help

If you have a legal problem, you have the right to speak to a lawyer, so contact Victoria Legal Aid, Youthlaw or a community legal centre. You can get free legal advice and you may be able to get a lawyer to help you free of charge.

These organisations and others are listed at the end of most chapters in this booklet, as well as in the 'Where to get help' chapter on page 75.

### Victoria Legal Aid

We are a state-wide organisation that helps people with their legal problems. We focus on helping and protecting the rights of socially and economically disadvantaged Victorians.

We have lawyers in offices in most major metropolitan and country regions. We also fund private lawyers to provide legal services to the public.

We can help you with your legal problems about criminal matters, family breakdown, family violence, child support, immigration, social security, mental health, debt and traffic offences.

Call us to find out how we can help you on 9269 0120 or 1800 677 402 (country callers).

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### What do these words mean?

**alcohol interlock** – a device fitted to a car's ignition to test the driver's breath for alcohol. When alcohol is detected, the car will not start

**bullying** – something done on purpose against a person or group of people to upset or hurt them or their property

**consent** – agree

**contract** – an agreement between two parties which the law says must be carried out

**criminal record** – a police record of your history of criminal offences and sentences

**evidence** – information used in court to prove something

**independent person** – an adult who must be with you during police questioning when you are under 18 and your parents or guardian cannot be there

**intervention order** – a court order to protect you from family violence or stalking

**sexual assault** – behaviour of a sexual nature that makes you feel uncomfortable, frightened or intimidated

**Will** – a legal document setting out who gets part or all of a person's estate when they die

### Your life, your rights

You have rights, regardless of your age. Under the United Nations Convention on the Rights of the Child, which sets out the rights of people under 18, you have the right to:

- be free from sexual and economic exploitation
- your own opinion
- education, health care and economic opportunity.

You also have rights and responsibilities under Victoria's Charter of Human Rights and Responsibilities. The Victorian Government and its agencies must consider these rights when they make laws and provide services. For more information about the charter contact the Victorian Equal Opportunity & Human Rights Commission, see page 6.

#### Your right to see a lawyer

No matter how old you are, you have the right to go and see a lawyer if you think you have a legal problem or you need legal advice. A lawyer will listen to you and give advice about the best way to handle things. It's up to you whether you take that advice or not.

You can get free legal advice from a lawyer at Victoria Legal Aid, Youthlaw or a community legal centre. See 'Where to get help' on page 75. You may be able to get a lawyer to give you ongoing help. This can include help with writing letters or help with going to court.

If you have to go to the Children's Court, a lawyer may be able to go with you and speak on your behalf. Try to see a lawyer before going to court. A lawyer's job is to help you present your case in the best way. The lawyer isn't in charge of how you run your case. You are.

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The information you give the lawyer is confidential. They can't tell anyone else (like the police or your parents) about your situation unless you say it's okay.

Lawyers who act as an independent children's lawyer in the family law courts have a different role. See 'What is an independent children's lawyer?' on page 39.

## What is discrimination?

Discrimination means being treated unfairly or not as well as others because of things like gender, race or marital status (whether you're married or not). The law says that everyone is equal. It shouldn't matter what your sex, race, marital status, religion, sexuality or gender identity is or what physical features, disability or political views you have.

## When is discrimination against the law?

Discrimination, including sexual harassment, is against the law if it happens at school, at work, in accommodation (for example, staying at a hostel), during sporting activities, in local government, at public or publicly funded clubs and community organisations, or when you receive goods or services. For example, it's illegal to refuse to serve someone because of their race or for a landlord or real estate agent not to rent a house to a couple because they're unmarried. It's also illegal for someone to discriminate against you because you're friends with someone who has, for example, a disability or certain religious views.

It's also illegal to vilify (spread negative information about) someone because of their racial or religious background. Vilification includes things like racist graffiti.

Sometimes discrimination may not be unlawful. For example, when a character makes racist comments in a play. But even in these situations the character's behaviour has to be reasonable – the comments must fit the situation and be made 'in good faith' (honestly and sincerely).

## What is sexual harassment?

Sexual harassment is when someone behaves in a sexual way that offends, humiliates or intimidates you. It can include things like:

- telling dirty jokes
- staring and leering
- someone making comments about another person's sexual behaviour
- offensive pictures, emails or text messages
- someone touching, pinching or brushing up against another person unnecessarily
- someone kissing or hugging another person when they didn't say yes to it.

It's also sexual harassment if you agree to someone behaving sexually towards you because you were scared or pushed into it. Sexual harassment is unlawful, and if the person's behaviour is serious then the police could charge that person with a criminal offence – this means it could go to court. So get help. See 'Where to get help' on page 75.

See also 'What is incest?' (page 35), 'How do I know if I've been sexually assaulted?' (page 35), 'Violence and sexual assault' (page 33), 'Reporting child abuse or neglect' (page 39).

## What is not sexual harassment?

It isn't sexual harassment if both people agree to the sexual behaviour. None of this stops you developing friendships, sexual or otherwise, with people your age.

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## Where to get further help and information

- Australian Human Rights Commission – call 1300 656 419 or visit [www.humanrights.gov.au](http://www.humanrights.gov.au)
- Centre Against Sexual Assault (CASA) – call 9635 3610 or the Sexual Assault Crisis Line on 1800 806 292 (free call, open 24 hours). More information online at [www.casa.org.au](http://www.casa.org.au)
- Fair Work Ombudsman – call 131 394 or visit [www.fwo.gov.au](http://www.fwo.gov.au)
- Victorian Equal Opportunity & Human Rights Commission – call 1300 292 153 or 1300 289 621 (TTY). Visit [www.equalopportunitycommission.vic.gov.au](http://www.equalopportunitycommission.vic.gov.au)
- Victoria Legal Aid Legal Information Service – call 9269 0120 or 1800 677 402 (country callers), Monday to Friday, 8.45 am to 5.15 pm

## School

This section looks at leaving school before you're 17 and what happens if you're suspended or expelled from your school. There may be different rules for state and private schools. This section also explains what bullying is and how to deal with it.

### Am I old enough to leave school?

You have to go to school until you have completed Year 10.

After that you can leave school as long as you do at least 25 hours per week in education, training, employment or a combination of these things, until you turn 17.

Most young people stay on at school until 17, where you can do the Victorian Certificate of Education (VCE), the Victorian Certificate of Applied Learning (VCAL) or Vocational Education and Training (VET) subjects. If you don't do these things, you can study somewhere else (like a TAFE) or get an apprenticeship or a full-time job instead.

Anyone aged between 15 and 19 can get a government-funded place at a TAFE or Registered Training Organisation to continue their education. You can check out some possibilities by looking at [www.education.vic.gov.au/aboutschool/leaving](http://www.education.vic.gov.au/aboutschool/leaving)

Before finishing Year 10, you can stop going to school for reasons like:

- your parents or guardian are giving you proper and regular lessons at home
- there's no state school within five kilometres and you're learning by correspondence
- you're very ill or unable to get to school

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- the Department of Education and Early Childhood Development has exempted you for some other reason – for example, you’re completing your education in another program out of school, or you have to leave school to work because your parents are very ill or suffering severe hardship.

If you want to leave school before finishing Year 10 you need approval from the department. Ask your school about this or contact the education department (see page 13) to find out the name of their regional director in your area.

## What happens if I am suspended from school?

Suspension is when the principal doesn’t let you go to school for a short time.

Suspension is normally only used when the school has tried other ways of sorting out the problem but these things haven’t worked.

You can be suspended if, while you’re at school, or travelling to or from school, you:

- create a danger to people at school
- use serious violence against people
- seriously damage property
- steal or help others steal
- sell, use or bring drugs alcohol or cigarettes to school
- disobey clear and reasonable instructions from school staff
- disturb order at school or stop others from learning or taking part in school life
- discriminate against, harass or bully other people.

See also ‘What is discrimination?’ on page 4, ‘What is bullying?’ on page 11.

The principal should let you explain your side of the story and consider other penalties before suspending you. They must also meet with your parents or guardian to talk about the situation and explain what happens if they suspend you. You can take a support person to the meeting if the principal agrees.

The principal can suspend you immediately if they think this is necessary.

The principal can’t suspend you for more than five school days at a time. You can’t be suspended for more than 15 school days in a year. You can still do school work while you’re suspended. The school must give you work.

If you don’t agree with the suspension and want advice about what to do, you can contact your local regional office of the education department – see page 13. If you’re not happy with their response you can contact Ombudsman Victoria – see page 13.

If you’re worried about getting advice or taking action, you can ask for help from your parents, your guardian or someone else you trust.

## What does it mean if I am expelled from school?

Expulsion is when the principal excludes you from school permanently. The principal can expel you for any of the things they can suspend you for (see the previous section). They expel you rather than just suspend you if your behaviour is so serious that suspension isn’t enough.

Expulsion is a last resort and the principal must ensure that the school has explored other options apart from expulsion.

The school can only immediately expel you if you behave in a way that places another person in severe immediate physical threat.

The school must give you and your parents the chance to explain why you shouldn’t be expelled. Before expelling you, the principal must set up a meeting to discuss with you and your parents the reasons for the expulsion and next steps.

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If you're under 17, the education department's regional director must help you enrol in another school. If you're 17 or older, the school will give you options for continuing your education.

### What if I disagree with my expulsion?

Your parents or guardian can write to the principal within ten school days of getting the expulsion notice to say you want the decision reviewed. You can appeal the expulsion if you think:

- that the school didn't follow expulsion process very well
- that the reason the school expelled you was unfair
- there were other circumstances that you think the school should take into account.

Include your reasons and say whether you want to argue your case in person.

If you are over 16 and don't live at home, you can write to the principal or regional director yourself.

The principal will send your letter to the Expulsion Review Panel. The panel will include a person from the department's regional office, a principal from another school and someone from your school council.

They will hold a hearing where you and your parents can explain why you should not be expelled. You can bring a support person as long as they are not being paid to be there.

The panel can either agree with the expulsion or recommend that you return to school.

If you don't agree with the panel's decision, your parents or guardian can write to the Deputy Secretary, Office for Government School Education within ten school days of being told their decision.

The Deputy Secretary will ask someone to investigate the case. If you still don't agree with the investigator's decision you may be able to challenge the expulsion in court. Get legal advice and other support.

See 'Where to get further help and information' on page 13.

Private (non-government) schools have more freedom to suspend and expel students than government schools. Get a copy of your school's disciplinary procedures to find out how to challenge a decision. You may be able to challenge your suspension or expulsion in court or through a tribunal.

### What is bullying?

Bullying is when someone behaves in a way towards another person or group of people to upset or hurt them or damage their property, reputation or acceptance by others. It is usually repeated behaviour and can be carried out over a number of days but it can go on for weeks, months or years.

Bullying can happen anywhere and anyone can be a bully, like a teacher or a student, even family members or someone you've had a close relationship with.

There are different types of bullying:

- **direct physical:** this means the bully hurts your body, doing things like hitting, pinching or kicking you. It can also mean the bully steals or damages things that belong to you
- **direct verbal:** this means the bully speaks to or about you in a mean and hurtful way, like teasing or calling you names or spreading rumours about you
- **indirect:** this includes things that the bully does to upset, exclude or embarrass you, like leaving you out of a game on purpose, using rude body language, texting, emailing you unwanted messages or using chat rooms to upset you.

Bullying is never okay. If someone is bullying you, you can take action to stop it. Schools and employers must try their best to make you feel safe and stop bullying from happening. For example, most schools and employers are expected to have policies about bullying.

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## What can I do if I am being bullied?

Make a list of all the things that have happened and when they happened, who was involved and who may have seen it.

See a doctor if you're hurt or stressed, and tell the doctor why.

If the bullying is happening at school, talk to a teacher, the welfare co-ordinator or the school principal about what they can do. If it's happening at work, talk to your manager. Be prepared to name the bully.

Ongoing bullying or harassment may also equal stalking. You may have a right to apply to a court for an intervention order. Under new laws, you may even have a right to apply for an intervention order for one-off bullying.

Remember: you can take action to stop bullying. Talk to an adult you trust. See also 'Violence and sexual assault' (page 33) and 'Where to get further help and information' on the next page.

## Where to get further help and information

- Centre for Adolescent Health – for free support and referral call 9345 5890
- Department of Education and Early Childhood Development – call 9637 2000 or visit [www.education.vic.gov.au](http://www.education.vic.gov.au)  
Visit [www.education.vic.gov.au/healthwellbeing/support/default.htm](http://www.education.vic.gov.au/healthwellbeing/support/default.htm) for information about staff who can support students and their families. For more information on suspension and expulsion in government schools visit [www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/segpolicy.pdf](http://www.eduweb.vic.gov.au/edulibrary/public/stuman/wellbeing/segpolicy.pdf)
- Independent Schools Victoria – call 9825 7200 or visit [www.ais.vic.edu.au](http://www.ais.vic.edu.au)
- Kids Helpline – 24-hour telephone and online counselling for children and young people. Call 1800 551 800 (free call) or visit [www.kidshelp.com.au](http://www.kidshelp.com.au)
- Ombudsman Victoria – can investigate decisions made by government schools and can recommend different action. Call 9613 6222 or 1800 806 314 (country callers) or visit [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)
- Youthlaw – call 9611 2412, email [info@youthlaw.asn.au](mailto:info@youthlaw.asn.au) or visit [www.youthlaw.asn.au](http://www.youthlaw.asn.au)
- For more information about bullying visit [www.bullyonline.org](http://www.bullyonline.org), [www.bullyingnoway.com.au](http://www.bullyingnoway.com.au) or [www.cybersmart.gov.au](http://www.cybersmart.gov.au)

## Becoming independent

Being in charge of your own life means you'll have to think about finding a job and a place to live. You have to vote if you are 18 or over, and you may want to open a bank account. You might also want to make a Will, travel overseas and drive a car. This section tells you about the law and gives you a few tips about how to do some of these things.

### Where to look for work

Depending on the kind of work you want, you could start with:

- local shopping centres, newsagents and restaurants
- job ads in your local and other newspapers
- job websites.

Sometimes employers don't advertise jobs, so it's worth telling people you know that you're looking for work. They may be able to help you.

### Using the Job Network to find work

Job Network is made up of different organisations that can help you find work. Anyone who is looking for a job can use the Job Network 'access area' in Centrelink offices. These areas have touch-screen machines that list jobs. You can also use the phone, fax, photocopier, computers and printers to help you prepare your job application. You don't have to be on Centrelink payments to use the access area.

If you want to start an apprenticeship or traineeship, Centrelink can put you in contact with Job Network members. These organisations handle new apprenticeships.

### When am I old enough to work?

The minimum age for most types of employment is 13. If you're under 15, special restrictions apply to your employment (see the 'Any age' section below).

#### Under 13 years

Generally, an employer can't hire you to work if you're younger than 13. However, if you're 11 or older, an employer can hire you to do jobs like delivering newspapers or advertising material, or making deliveries for a pharmacy.

#### Under 15 years

There are laws employers have to follow about employing young people under the age of 15. The government can fine employers if they don't follow these laws. One condition is that employers or supervisors of young people under 15 must have police checks. Another condition is that the employer can only give a person under 15 a job during school hours if that person has permission not to go to school.

#### Any age

You can work in a family business or in the entertainment industry at any age. If you work in a family business, your parents must supervise you. They need to make sure you only do light work that will not stop your schoolwork.

#### Do I need a Child Employment Permit?

If you're under 15, an employer can only hire you if you have a Child Employment Permit. You get these from the Department of Innovation, Industry and Regional Development. See Workforce Victoria in 'Where to get further help and information' on page 29. Permits are free. Your parents or guardian apply for the permit. Your employer (and usually also your school) must sign the application form. The employer must include details about what you'll be doing as part of the job and your hours of work.

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It's illegal to work without a permit. The government can fine employers between \$1000 and \$10,000.

If you're under 15, you don't need a permit if the work doesn't happen very often and involves you:

- working in your family's business and being supervised by your parent or guardian
- doing work that doesn't happen very often
- taking part in a project or a show with a church or a school
- taking part in a church service or religious program
- volunteering with a non-profit organisation
- doing odd jobs for neighbours or friends like babysitting or tutoring
- taking part in a sporting activity.

## What types of work can I do?

Wherever you work, you're only allowed to do light work. This means work that won't hurt you in any way and work that won't stop you from going to school. Examples of light work include:

- going on errands
- casual work in or around a house
- golf-caddying
- office work, such as photocopying
- gardening
- street trading
- delivering newspapers, pamphlets or other advertising material and making deliveries for a registered pharmacist
- entertainment
- farm work
- working as a sales assistant in a shop.

You can't work in door-to-door sales, in the building and construction industry or in deep-sea fishing. You can't sell alcohol in a bottle shop, hotel or restaurant until you're 18 unless you're on an approved training program.

## How many hours can I work?

If you're under 15, the employer can hire you to work for no more than three hours a day and 12 hours a week during school term. During the holidays you can work for no more than six hours a day and 30 hours a week. These hours include rest breaks.

The employer can only get you to do work between 6 am and 9 pm. Also, if you work in street trading, such as at a fruit stall or mobile food van, you can't work between 6 pm and 6 am. The employer must give you 30 minutes for a break after every three hours you've worked and give you at least 12 hours' break between finishing one shift and starting the next.

## Are there any restrictions about doing work experience?

If you're over 14, an employer can only give you work experience for up to 10 days a term but no more than 40 days a year. The employer can't make you work for more than 10 days in one work experience placement. If you're under 15, the employer will need to give you special forms to fill in. You might not be able to do certain work (such as with animals or money) and you may need a Child Employment Permit. Structured Workplace Learning students need to be 15 years or older.

There are guidelines for selecting work experience placements. Speak to your work experience co-ordinator for more information.

## What is an employment contract?

Once you get a job, your employer may ask you to sign an employment contract. This is a legally binding document that sets out your conditions of work. Your rate of pay depends on your age.

Never sign an employment contract until you have read it, understood it and agree with it. It's a good idea to get advice before you sign an employment contract, even if you think you know what you're signing. Make sure you keep a copy of the contract for yourself.

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Sometimes an employment contract is oral (spoken) and not in writing. You have a right for the employer to tell you the amount of pay before you take the job.

If you have questions about employment contracts, pay and conditions, being sacked unfairly or other work problems, get advice quickly.

See 'Where to get further help and information' on page 29.

### What is 'cash in hand' work?

Sometimes your employer might want to pay you cash in hand. This means that the employer does not take any tax out of your pay and that you won't have to do a tax return. It can feel like you're earning more money.

Be careful. You might have trouble if something goes wrong and you try to get help with it. For example, you might go to the Fair Work Ombudsman to get wages back because you were paid less than the minimum wage or you might want to go to Worksafe to make a Workcover claim for an injury. When you do that, the government may find out that you worked cash in hand. This could lead to:

- Centrelink - if you get a benefit and haven't told them about the work, you could owe them money, or even be charged with an offence
- Australian Taxation Office - if you haven't paid tax, you might owe them money
- Visas - if your visa says you're not allowed to work and you do, you could be charged with an offence or even have to leave the country.

Also, because the employer didn't keep a record of your work (for example, payslips) then the employer may deny that you were ever employed (though witnesses could disprove this).

As well, cash in hand means the employer won't pay you a superannuation contribution. If you work for years, you could miss out on quite a bit of superannuation. Superannuation is a part of your pay that your employer passes onto your superannuation fund. The idea is that this money builds up over your lifetime, from employer to employer, so there is money for you when you retire.

### Remember

- Make sure you read any contract you're asked to sign and keep a copy. Don't sign it if you don't understand it. Tell the employer you'd like to take the contract away to think about it and get advice.
- There are minimum standards that apply to all Australian workers, no matter what you agree to in your contract. As well, you may have extra entitlements. It can depend on what type of job you do. Contact the Fair Work Australia to find out if you're getting your minimum entitlements. If you aren't, the Fair Work Ombudsman may be able to help you get them. See 'Where to get further help and information' on page 29.
- If the employer fires you and you think it was unfair, get help quickly. Strict time limits apply. You have 14 days from your dismissal to apply for an unfair dismissal. See 'Where to get further help and information' on page 29.

### Am I old enough to open a bank account?

You can open a bank account at any age. You need more than one form of identification, like your birth certificate and photo ID. Ask the bank what kind of ID they need from you. If you have a tax file number, tell the bank. If you don't give the bank your tax file number, you may be taxed at a higher rate.

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## Paying tax and getting a tax file number

### How much tax will I pay?

The first \$6000 of income that you earn is tax-free. This is called the 'tax-free threshold'. This applies to only one income, so if you work part time and get Youth Allowance, you can only claim the tax-free threshold for either your part-time income or your Youth Allowance income.

Your employer will send you a payment summary after the end of the financial year (30 June). This shows how much you earned in that year and how much tax you paid.

### Do I have to do a tax return?

If you work and earn more than \$6000 in one financial year (July to June), then you must put in a tax return. If you're under 18 and earn more than \$1333 from investments in one financial year, you must put in a tax return.

If you earned less than \$6000 in the financial year and the employer kept some of your pay as tax to pass onto the tax office, you can put in a tax return and get some of that money back. This is called a 'tax refund'. The tax office has a booklet called TaxPack. It tells you how to fill in your tax return. You can get a copy from the tax office or any newsagent.

### What is a tax file number and why do I need one?

The tax office gives you a tax file number and it's yours for life, even if you move states, change your name, live overseas for a while or get a new job.

You need a tax file number when you:

- start going to university on HELP (Higher Education Loan Program)
- open a bank account
- get a Centrelink payment
- join a superannuation fund
- put in a tax return.

It's a good idea to get a tax file number if you start working. If you don't, then your employer has to keep almost 50% of your wages in tax to be passed onto the tax office.

### How do I get a tax file number?

You can get an application form for a tax file number from the tax office (see 'Where to get further help and information' on page 29) or newsagencies. If you're under 16, you need two forms of ID, like your birth certificate or citizenship papers with proof of residence, and a recent school report.

If you're over 16 you need three forms of ID. If you're still at school, you can apply through your school to get a tax file number.

## Am I old enough to leave home?

You can leave home if you want to when you turn 17. If you leave home before you turn 17 and someone thinks you might suffer significant harm, they can report this to the Department of Human Services.

If the department is concerned for your safety, it can ask the Family Division of the Children's Court to make an order to protect you. The order can say where you'll live and whom you'll live with.

The department probably won't take you to court if you:

- have somewhere decent to live
- have enough money to live on
- are mentally healthy
- aren't involved with drugs, prostitution or any other illegal activities.

If there are serious problems at home, the department probably won't force you to go home if you don't want to. The court may order that you live somewhere else, like with another family or in a residential unit with other young people.

See also 'Violence and sexual assault' (page 33), 'Family breakdown – what will happen to me?' (page 38), 'Reporting child abuse or neglect' (page 39).

## Finding a place to live

### Emergency housing

You might be able to get emergency housing for a little while if you urgently need somewhere to live. See 'Where to get further help and information' on page 29.

### Renting

If you're under 18, you can rent a house or flat (there are age limits on when you can leave home, see page 21). Centrelink might also give you a payment called Rent Assistance.

You usually have to sign a lease when you rent a house or flat. This is a contract between the owner (the landlord) and you (the tenant). Make sure you read and understand the lease before you sign it. The landlord or real estate agent (representing the landlord) should also give you a booklet explaining your rights as a tenant.

You also have to pay a 'bond'. This is usually a cash payment of one month's rent. You will usually give the bond to the owner or real estate agent who then sends the bond to the Residential Tenancies Bond Authority. The authority then sends you a letter to tell you they got the bond. Keep this letter. You'll get the bond back when you move out if you've paid your rent and kept the place in good condition.

The landlord or real estate agent should give you a 'condition report' when you start your lease. You and the landlord or real estate agent both fill in the report, agreeing on what condition you both think the place is in at the start of the lease. The report is used when you move out to check to see if you have taken care of the place and whether they should give you back your bond.

The owner of the property is responsible for getting repairs done to maintain the place. You can get help if this isn't done.

If you don't pay the rent you may be evicted (thrown out). If you damage the place, the owner may keep your bond money. To do this they have to apply to the Victorian Civil and Administrative Tribunal Residential Tenancies List. Contact the Tenants' Union of Victoria if you're in this situation. See 'Where to get further help and information' on page 29.

## Centrelink, allowances and payments

When you turn 17, if you're unemployed you can register with your local Centrelink office. Centrelink is a government organisation that can give you money if you don't have financial support. If you aren't sure if you can get Centrelink payments, it's always best to apply.

Centrelink will look at your income and assets, and work out if you're eligible for financial help. If you're under 18, Centrelink may also look at your parents' income and assets. If you're living with your partner, Centrelink will look at their income and assets. If you're eligible, the type of payment and how much you get depends on your circumstances.

If you're unemployed, you can register with your local Centrelink office even if you're not eligible for an allowance. By registering you can use a range of job search services.

Below is a description of different Centrelink payments. It's just a summary so if you need more information call Centrelink. See 'Where to get further help and information' on page 30.

### Youth Allowance

This is for young people who need financial support while studying, training or looking for a job. Centrelink may give you Youth Allowance if:

- you're a full-time student aged 17 to 24
- you're aged 16 to 20 and are looking for a full-time job or combining part-time study with looking for work.

# Am I old enough?

Common legal issues for young people

Centrelink may consider you to be 'independent' and they may give you a higher rate of Youth Allowance if you're aged between 15 and 24 and:

- you're an orphan, a refugee or homeless
- your parents can't provide a home, care or support
- you have a dependent child.

This can be complicated. Get legal help. See 'Where to get help' on page 75.

If you're sick and are temporarily unable to work, study or look for work, Centrelink may still pay you Youth Allowance. You have to get a medical certificate.

If you're under 18 and you leave school before finishing VCE and you don't plan on doing any further study or training, Centrelink may be unable to give you a payment. You may have to rely on your parents to support you unless you can find work.

If you can't live at home, stay at school or find the right study or training programs, ask to see the social worker at your local Centrelink office to talk about your options. Call 131 021 to make an appointment.

## Abstudy

This is a type of payment for Koori and other Indigenous people who are studying. If you're at primary school, you must be at least 14 years old for Centrelink to give you Abstudy. There's no age limit for secondary school students.

## Parenting Payment

If you have a dependent child, Centrelink may give you Parenting Payment.

## Special Benefit payment

If you're in financial hardship and can't get any other type of income support, Centrelink may be able to give you a payment called Special Benefit.

## Disability Support Pension

If you're 16 or over and have a medical condition that is serious and stops you from working or studying, Centrelink may be able to give you the Disability Support Pension. Ask Centrelink how to apply. You will need a report from your doctor and you may also need to see a doctor from Centrelink.

## Keep Centrelink up to date

Every time your circumstances change, tell Centrelink. Changes, like getting extra income, may affect how Centrelink pays you and how much they pay you. There can be problems if you don't tell them. If you're unsure whether the change will affect your Centrelink payments, get legal advice. See 'Where to get help' on page 75.

## What if I disagree with a Centrelink decision?

Talk to the person who made the decision. If you're still not happy, you can ask for an Authorised Review Officer to review the decision.

If you still think the decision is wrong, you can appeal to the Social Security Appeals Tribunal. This is free but you must appeal within three months if you want to get 'back pay'.

You can appeal by:

- phoning the tribunal on 9954 0700 or 1800 011 140 (free call)
- writing to the tribunal at GPO Box 9943 Melbourne 3001
- filling in an appeal form at your local Centrelink office.

Get legal advice before appealing. See 'Where to get help' on page 75.

# Am I old enough?

Common legal issues for young people

## Am I old enough to drive a car?

You need to get a learners permit (L-plates) and then a drivers licence (P-plates). You can get your L-plates when you turn 16 and your P-plates when you turn 18. Up until you're 21 you need to be on your L-plates for at least 12 months before you get your P-plates.

Sometimes people under 18 can have a shorter learners permit period, for example, if the licence is essential for work or you live in a very isolated area.

There are rules you need to follow. The penalties are tough if you break the rules. The rules include things like:

- you can't drink any alcohol and drive
- you can't drive if you're affected by drugs (even if your doctor has prescribed the drugs)
- you must carry your permit or licence with you at all times
- you must register your car with VicRoads
- when you're on your L-plates you must always have a licensed driver with you when you drive.

## What are graduated licences?

Graduated licences are two-stage licences for probationary licence drivers aged 18 to under 21. In the first stage, you get a P1 licence (red P-plate) for the first 12 months. In the second stage, you get a P2 licence (green P-plate) for three years. If you have a bad driving record, it takes longer to get to the P2 stage and then the full licence.

If you got your Ps before 1 July 2008, there are rules you have to follow. These include:

- you must not drive certain types of high-powered vehicles known as 'probationary prohibited vehicles'. Check with VicRoads about what these vehicles are. In some cases you can apply to VicRoads to drive these sorts of cars
- you must not use a hand-held mobile phone while driving.

If you got your Ps after 1 July 2008, rules apply:

- P1s must not use any mobile phone, hands-free or hand-held or do any text messaging while driving
- P1s and P2s, at all times, can't have more than one 'peer passenger' in their vehicle. A 'peer passenger' is someone aged 16 to under 22 years old.

## What about motorbike licences?

You can apply to VicRoads for a learners permit to ride a motorbike when you're 18 or older. You must have the permit for at least three months before you can apply for a full licence. The length of time on P-plates depends on what kind of car licence you already have.

There are some other rules you need to follow. For example, for the first year of your licence, you can't ride a motorbike with an engine bigger than 260cc or carry a pillion passenger. If you're riding a motorbike or a bicycle, you must wear an approved helmet.

## What happens if I'm caught 'hoon driving'?

'Hoon driving' includes things like:

- deliberately skidding or not having proper control of the vehicle
- giving off too much noise or smoke
- excessive speeding
- being a part of a speed trial or drag race
- careless or dangerous driving
- failing to stop when police ask you to
- repeatedly driving while disqualified.

The police can immobilise or take possession of your vehicle for up to 48 hours if they believe it was used for hoon driving. If you keep doing hoon driving, the police or court can take your car away permanently, even if you were driving someone else's car.

## Am I old enough?

Common legal issues for young people

### Am I old enough to vote?

You can register to vote when you turn 17 but you can't vote until you're 18. Once you're 18, and if you're an Australian citizen, you have to enrol and vote in state, federal and local government (council) elections. The government will fine you if you're registered and don't vote.

### Do I need a passport?

You need a passport to travel outside of Australia. You can apply to the Australian Passport Office for a passport before you turn 18 (but only if your parents or guardian agree). If your parents or guardian can't or won't agree, there are steps you can take. Contact the Australian Passport Information Service on 131 232.

You don't need your parent's or guardian's consent (agreement) to get a passport if you're married.

You can get passport applications from your local post office.

### Making a Will

You can make your Will as soon as you're 18. A Will is a document that says who you want your belongings to go to if you die. Your Will is only valid if you sign it and two other people witness you signing it. Get legal advice if you want to make a Will – see 'Where to get help' on page 75. Some agencies offer free Wills but check to see if they ask for a commission or payment from your estate (the assets of a dead person) after your death.

If you're not yet 18, you can only make a Will if you're married or plan to marry. The Will is only valid if you actually marry or if you have court approval.

### Where to get further help and information

#### Jobs and work

- Fair Work Australia – if you've been unfairly dismissed, call them on 1300 799 675 within 14 days of your job ending
- Fair Work Ombudsman – call 131 394 or visit [www.fwo.gov.au](http://www.fwo.gov.au)
- Job Watch – 9662 1933, 1800 331 617 (country callers), email [jobwatch@jobwatch.org.au](mailto:jobwatch@jobwatch.org.au) or visit [www.jobwatch.org.au](http://www.jobwatch.org.au)
- Victorian Trades Hall Council – if you're a member of a union and want more information call them on 9659 3511
- Workforce Victoria – 1800 287 287 (free call) or visit [www.workforce.vic.gov.au](http://www.workforce.vic.gov.au)
- For career tools and profiles, job seeking tips and more visit [www.myfuture.edu.au](http://www.myfuture.edu.au), [www.year12whatnext.gov.au](http://www.year12whatnext.gov.au), [www.youthcentral.vic.gov.au](http://www.youthcentral.vic.gov.au)

#### Tax and banking

- Australian Taxation Office – for information about getting a tax file number, starting your first job or the Australian tax system call 132 861 or visit [www.ato.gov.au/youth](http://www.ato.gov.au/youth)
- Banking and Financial Services Ombudsman – call free on 1300 780 808 or visit [www.bfso.org.au](http://www.bfso.org.au)

#### Renting and housing issues

- Consumer Affairs Victoria – call 1300 558 181, visit [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au) or drop in to their service centre located at 113 Exhibition St, Melbourne. For complaints about real estate agents call the Estate Agent Resolution Service (EARS) on 1300 737 030
- Kids Helpline – for emergency housing call 1800 551 800
- Office of Housing – for emergency housing call 1300 650 172 or visit [www.housing.vic.gov.au/home](http://www.housing.vic.gov.au/home)
- Residential Tenancies Bond Authority – for tenancy bond issues call them on 1300 137 164, email [rtba@justice.vic.gov.au](mailto:rtba@justice.vic.gov.au) or visit [www.rtba.vic.gov.au](http://www.rtba.vic.gov.au)

# Am I old enough?

Common legal issues for young people

- Tenants' Union of Victoria – 9416 2577 or visit [www.tuv.org.au](http://www.tuv.org.au)
- Victorian Civil and Administrative Tribunal (VCAT) Residential Tenancies List – visit [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) and follow 'Residential Tenancies' link

## Centrelink and allowances

- Centrelink's Youth and Student Services – call 132 490 or visit [www.centrelink.gov.au](http://www.centrelink.gov.au)
- Victoria Legal Aid Legal Information Service – call 9269 0120 or 1800 677 402 (country callers), Monday to Friday, 8.45 am to 5.15 pm
- Welfare Rights Unit, Melbourne – call 9416 1111 or 1800 094 164 (country callers) or visit [www.welfarerights.org.au](http://www.welfarerights.org.au)

## Voting, driving and passports

- Australian Electoral Commission – call 132 326 or visit [www.aec.gov.au](http://www.aec.gov.au)
- Australian Passport Information Service – for information about passports call 131 232, email [passports.australia@dfat.gov.au](mailto:passports.australia@dfat.gov.au) or visit [www.passports.gov.au](http://www.passports.gov.au)
- VicRoads – call 131 171 or visit [www.vicroads.vic.gov.au](http://www.vicroads.vic.gov.au)

You might want a copy of our free booklet, *Road to court*, which is about traffic offences in the Magistrates' Court. For a copy call 9269 0223 or visit [www.legalaid.vic.gov.au/publications](http://www.legalaid.vic.gov.au/publications)

## Relationships

This section is about the people you're closest to and some of the things that can happen in these relationships. There are laws about relationships and about how people should treat each other. There are no laws about when you can start to have a relationship with someone else, but there are laws about when you can start to have sex.

Having sex is a big step. It's important that you feel in control and make decisions that are right for you. You may want to get advice from someone you trust. If you're thinking about having sex, talk to your doctor or family planning clinic about contraception and sexually transmissible infections.

If you're not sure about your feelings or feel uncomfortable about how someone is treating you, you can talk to someone you trust or to a counsellor.

## Sex and the law

The law applies to sexual penetration, which includes anything that involves a penis touching a vagina, anus or mouth. It also includes putting an object or a part of the body into contact with a vagina or anus. The law also applies to touching a person in a sexual way, like touching another person's vagina, penis, anus or breasts.

### Am I old enough to have sex?

The law makes rules about sex and sexual touching. It says that if someone touches you sexually without your agreement (consent), this is unlawful and therefore a crime. This is known as a 'sexual offence' and is a very serious crime. Sexual offences can be committed by anyone, it doesn't matter what their sexuality is. The law sets age limits for having sex to help protect you from other people exploiting you (taking advantage of you), especially people older than you.

# Am I old enough?

Common legal issues for young people

Even if a person says they don't know the rules about age limits, the police can still charge that person with committing a sexual offence. The police can also charge young people with sexual offences. Make sure you know the rules for your age – not knowing the law is no excuse.

## Same-sex people and having sex

The age of consent for same-sex relationships is the same as it is for heterosexual relationships. Schools must provide supportive environments that are respectful of students who are same-sex attracted or may be questioning their gender identity.

Your age	What the law says	Reasons why it may not be a crime	For example...
Under 12 years old	You can't agree (you can't consent) to have sex with anyone, let anyone touch you sexually or let anyone perform sexual acts in front of you	None	If someone who is 12 sexually touches someone who is 11, the 12 year old has committed a crime, even if the 11 year old 'agreed'
12 to 15 years old	If someone is more than two years older than you, you can't agree (you can't consent) to have sex with them, let them touch you sexually, or let them perform sexual acts in front of you	It's not a crime if the older person honestly believed that the younger person was two years younger than them or less	If someone who is 17 has sex with someone who is 15, it's not a crime. But if the older person was 18, it's a crime unless the 18 year old honestly believed the younger person was 16

16 or 17 years old	You can't agree (consent) to have sex with anyone who is caring for you or supervising you (like a teacher or foster carer), or let them touch you sexually or let them perform sexual acts in front of you	It's not a crime if the person honestly believed you were 18 or older	If an adult (someone 18 or over) has a sexual relationship with someone in their care and who is 17, it's a crime, unless the adult honestly believed the younger person in their care was 18 or older
18 years old and over	People over the age of 18 can agree (consent) to have sex with anyone else over 18	Not applicable	If someone who is 18 has sex with someone who is 19, it's not a crime

## What if I don't want to have sex?

The law says that two people can't have sex unless they both agree to it. If you don't agree and someone threatens you or touches you sexually, that person is breaking the law. If someone has sex with you or touches you sexually when you're asleep, unconscious or so affected by alcohol or drugs that you're unable to agree, it's still sexual assault.

See also 'What is incest' (page 35), 'How do I know if I've been sexually assaulted?' (page 35), 'Can I choose my own doctor?' (page 42), 'Do I need my parents' permission to get contraception?' (page 44), 'Girls: What are my options if I'm pregnant?' (page 44), 'Are there age limits for getting an abortion?' (page 45).

## Violence and sexual assault

There are many different types of violence, including sexual assault and incest, bullying and family violence. Violence can happen to a person at any age and can come from a complete stranger or from someone that person knows. Violence isn't just physical abuse. It can also include emotional abuse, like teasing, threats or stalking.



# Am I old enough?

Common legal issues for young people

Specifically, sexual assault is when someone behaves towards you in a sexual way that makes you feel uncomfortable, frightened or intimidated.

Violence can have a very bad effect on a person, whether they experienced it themselves or saw it happen to other people. You don't have to put up with violence of any kind. You have options. You can talk to someone you trust or one of the services listed in this booklet. You can also ring the police and you may be able to take out a family violence intervention order.

## Getting a family violence intervention order

A family violence intervention order is a court order that says a family member (which includes a boyfriend or girlfriend) must not harass or harm you. You can also ask that the person doesn't come near you or doesn't get their friends to harass you. The police can arrest the person if they disobey the order.

If a family member has been violent with you, you can get help to apply for a family violence intervention order. You can also get a stalking intervention order if someone is stalking you. If you're under 18, it's a good idea to apply in the Children's Court.

If you're:

- 18 and older – you can make a complaint in your own name
- 14 to 17 – you can only complain in your name if the court allows it. You should go to the Children's Court to ask. The court staff will help you with this.

Otherwise your parents or guardian or the police can make the complaint for you. Another adult can complain in your name if your parent writes a letter to say this is okay or if the court agrees to it.

You can get legal advice before applying for an intervention order. However, the court staff will help you to fill out the application. You do not need a lawyer to do this. See also 'Where to get help' on page 75.

## What is incest?

Incest is sex between family members: between siblings, between a child and parent, between a child and grandparent. It's illegal whether you agree to it (consent) or not and no matter how young or old you are. It's still incest even if a person isn't related to you by blood but is a close family member, like your stepfather. You also can't have a sexual relationship with a de facto partner of your father or mother while you're under 18.

## How do I know if I've been sexually assaulted?

If someone has sex with you or touches you sexually and you don't agree with this (consent), that person is breaking the law. The police can charge them with a criminal offence. This is the case even if you started having sex or agreed to be touched sexually with that person but then changed your mind. Even if you're asleep, unconscious or so affected by alcohol or drugs that you can't agree, it's still sexual assault. Sexual assault is never your fault.

If you've been sexually assaulted you can call the police (dial 000 or your local police station). The police have special units that investigate sexual assault and child abuse. You can also call the Centre Against Sexual Assault (CASA) for support and information, see page 37.

## Child pornography

You could be charged by the police with producing child pornography if:

- you take a nude or semi-nude picture of a person under 18, even if that person is your friend and they agree (consent) to the picture being taken
- you take photos or video of a person under 18 involved in sexual activity or posing in an indecent sexual manner (or who looks like they are).

## Am I old enough?

Common legal issues for young people

### Mobile phone pictures and the risks of 'sexting'

'Sexting' or sending 'sex messages' is where nude or sexual images are taken on a mobile phone. This is a crime if the photo includes a person under 18. Sexting has led to police charging young people with child pornography offences.

The police could also charge you with possessing child pornography if you go onto the internet and download pornography showing people under 18. If you put a pornographic photo or video on the internet or your phone, print a photo, or email or text it to a friend, you could be charged with publishing or transmitting child pornography. You could be charged even if you're the same age or younger than the person in the picture or video.

People found guilty of sexual offences or child pornography can get serious penalties and are stopped from working or volunteering with children.

Think carefully about what can happen if you take or send pictures of you or your friends on your mobile phone, especially if they're not fully dressed and even if they agree.

It may seem like harmless fun, but once you send pictures electronically they become part of your 'digital footprint' and this lasts forever. It could damage your career prospects or relationships.

### Am I old enough to get married?

If you're 16 or 17 you can only get married if:

- your parents or guardian agree
- your boyfriend or girlfriend is at least 18
- a court agrees that your situation is special enough to allow the two of you to get married – pregnancy may not be enough.

The court considers things like how long you have been together, your maturity, your financial situation and how independent you are from your parents. If the court agrees that you can marry, you have three months to do so.

You can get married without anyone else's permission at 18.

### Where to get further help and information

- Centre Against Sexual Assault (CASA) – call 9635 3610 or call the 24-hour Sexual Assault Crisis Line on 1800 806 292 (free call) or visit [www.casa.org.au](http://www.casa.org.au)
- Domestic Violence Resource Centre – call 9486 9866 or visit [www.dvrcv.org.au](http://www.dvrcv.org.au)
- Family Planning Victoria – visit [www.sexlife.net.au](http://www.sexlife.net.au) and click on 'Youthcentre'
- Gay and Lesbian Switchboard – counselling, information and referral service. Call 9663 2939 or 1800 184 527 (country callers) or visit [www.switchboard.org.au](http://www.switchboard.org.au)
- Registry of Births, Deaths and Marriages – visit [www.justice.vic.gov.au](http://www.justice.vic.gov.au) and follow the Births, Deaths and Marriages links or call 1300 369 367
- Transgender Victoria – for support and advice call 9517 6613 or visit [www.transgendervictoria.com](http://www.transgendervictoria.com)
- Women's Domestic Violence Crisis Service of Victoria – 24-hour crisis support and referrals to safe accommodation. Call 9373 0123 or 1800 015 188 (country callers)
- Information for young people about relationships and sexuality – visit [www.reachout.com.au](http://www.reachout.com.au)

You might want a copy of our free booklets:

- *You and family law: A short guide*
- *Sexual assault, the law, your rights as a victim*

For copies call 9269 0223 or visit [www.legalaid.vic.gov.au/publications](http://www.legalaid.vic.gov.au/publications)

Victoria Legal Aid Legal Information Service – call 9269 0120 or 1800 677 402 (country callers), Monday to Friday, 8.45 am to 5.15 pm

## Family

There are many different kinds of families. We're born into families and develop our identities within the family. This section looks at your rights to information about your identity and what happens when families break down.

### Family breakdown – what will happen to me?

If your parents are splitting up, or have split up, things can be pretty tough and confusing. Your parents might need to work things out like where you will live, who you will live with and what time you'll spend with each parent and your brothers and sisters. The law says your 'best interests' are the most important thing. Working out what is in your best interests can be quite hard. It doesn't necessarily mean you'll get what you want, although the court will always take this into account, as well as the needs of other family members. Each family is unique so there are many different arrangements that can be made.

As a general rule the law says:

- it's in your best interests to have a relationship and spend time with each of your parents, and your brothers and sisters (how and when this happens depends on your family's circumstances)
- your parents are responsible for your financial support, as far as they possibly can be.

### What can I expect if my parents go to court?

If your parents go to court to sort things out, the court will want to know if they have made suitable arrangements for you. The court may ask that you talk to a counsellor or other professional about what you want, and how you're feeling about the situation.

### What does an independent children's lawyer do?

A family law court might ask an 'independent children's lawyer' to look into your situation and try to find out what's best for you, and then work towards this.

To do this the lawyer will usually talk to you and other people involved in your life, like your teacher or doctor. They will listen to what you want and make sure the court knows this, but the court may not follow your views. The independent children's lawyer should also explain how the system works and the choices the court might have to make about your future. You can ask the independent children's lawyer any questions you might have about the court case.

See also 'What is incest' (page 35), 'How do I know if I've been sexually assaulted?' (page 35), 'Violence and sexual assault' (page 33), 'Where to get further help and information' (page 41).

### Reporting child abuse or neglect

If someone believes that a child is being neglected or abused – including physical, sexual and emotional abuse – that person can report this to Child FIRST. They can also report this to the Child Protection Crisis Line on 131 278.

Child FIRST can connect children, young people and their families to the services they need. People might call Child FIRST because they have seen:

- significant parenting problems that may be affecting a child's development
- family conflict, including family breakdown
- families under pressure due to a family member's physical or mental illness, substance abuse, disability or grieving after death
- young, isolated or unsupported families
- significant problems (like money problems) that might have bad effects on a child's care or development.

## Am I old enough?

Common legal issues for young people

If something has happened to you or to another young person, or if you're worried that it will, make sure you tell someone you trust, or call the police or the Child Protection Crisis Line. Some people – like doctors, nurses, teachers, principals and police – must tell the department if they think a person under 17 is being sexually or physically abused, or is at risk of abuse.

The department may take action to try to protect you from neglect or abuse including:

- working with you and your family to sort things out
- involving you in making decisions
- going to the Children's Court.

Get urgent legal help if you or family members are being told to leave your home or if you're unhappy with what the department is doing.

There are some decisions that the Children's Court can't make, instead the department makes these decisions through 'case plans'. For example, if you have a guardianship order, the department says how much access you can have with a parent.

Children and young people have the right to have their wishes listened to. If you disagree with the department's case plan, you should ask for a lawyer who is experienced in Children's Court cases. See 'Where to get help' on page 75.

### Can I apply for a copy of my birth certificate?

Yes, at any time, from the Registry of Births, Deaths and Marriages. A standard birth certificate costs \$26.60.

### Can I change my name?

You can't change your name until you're 18, unless your parents agree or you're married or divorced. If you're 12 or over and your parents want to change any part of your name, you have to agree before it can happen.

Application forms are available from Births, Deaths and Marriages. It costs \$60.60 to apply, plus \$26.60 if you need a certificate.

#### Where to get further help and information

- Centre for Adolescent Health – for free support and referral call 9345 5890
- Child FIRST – visit [www.cyf.vic.gov.au](http://www.cyf.vic.gov.au) and then use the 'Quick help' drop-down menu on the home page to find the number of the nearest office
- Child Protection Crisis Line – call 131 278 (open 24 hours, 7 days a week)
- Child Protection Services, Department of Human Services – call 1300 650 172
- Family Court – visit [www.familycourt.gov.au](http://www.familycourt.gov.au)
- Gateway Reconnect – offers support for young people to reconnect with their families and communities. Free mediation and referral. Call 9611 2411 or visit [www.gatewayreconnect.org](http://www.gatewayreconnect.org)
- Kids Helpline – 24-hour telephone and online counselling for children and young people. Call free on 1800 551 800 or visit [www.kidshelp.com.au](http://www.kidshelp.com.au)
- Melbourne Youth Support Services at Frontyard Youth Services – call on 9614 3688 or visit [www.frontyard.org](http://www.frontyard.org)
- Ombudsman Victoria – for complaints about the Department of Human Services call 9613 6222 or visit [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)
- Registry of Births, Deaths and Marriages – visit [www.justice.vic.gov.au](http://www.justice.vic.gov.au) and follow the Births, Deaths and Marriages links or call 1300 369 367

You might want a copy of our free booklet:

- *You and family law: A short guide* – information about applying for family violence intervention orders

For copies call 9269 0223 or visit [www.legalaid.vic.gov.au/publications](http://www.legalaid.vic.gov.au/publications)

## Health

Being healthy means feeling physically and emotionally good. Looking after yourself, knowing your legal rights and where to go for help are steps in the right direction. The more information you have, the better able you are to make decisions about what happens to your body.

### Can I choose my own doctor?

You have the right to choose your own doctor, someone you trust. In most cases your doctor must keep the things you talk about confidential (not tell anyone else). You can say it's okay to tell other people, like your parents or guardian. Ask your doctor if they have a policy about confidentiality. If you don't agree with the policy, choose another doctor.

There are some things your doctor must report, like some infectious illnesses, or when they think you've been abused or you're at risk of harm.

See also 'Reporting child abuse or neglect' on page 39.

### Can I refuse medical treatment?

Except for immediate, life-threatening emergencies, a doctor must get your consent (agreement) for any medical treatment. If you're under 18, it isn't always clear how old you must be to consent to or refuse treatment, even if you already have a child of your own. These are the general principles:

- minor medical treatment (like treatment for colds or acne) – if you're mature enough to understand what the treatment is about, you have the right to say yes or no

- more-complicated treatment (like abortion and contraceptive advice) – you may still have the right to say yes without your parent's or guardian's consent. The doctor has to be satisfied that you understand the treatment and its consequences. The doctor must also believe that the treatment is in your best interests
- some 'non-therapeutic' treatments (not involving illness, like sterilisation or gender-changing operations) – these may not be legal without court approval, even if you and your parents or guardian consent
- complex treatment (like treatment of eating disorders and other mental illness, or refusal of a blood transfusion on religious grounds) – you might not have the right to refuse such treatment, even if you fully understand the treatment and its consequences.

If you refuse medical treatment but the doctor thinks you're not well enough to understand what you're refusing, the doctor may request for you to be given the treatment involuntarily.

Some medical procedures done for cultural reasons, like clitoridectomy (female circumcision), are illegal. There are heavy penalties for them.

Your parents or guardian can only say yes or no to medical treatment on your behalf if you're not mature enough to make your own decisions. In this case the decision must be made in your best interests.

If you, your parents or guardian and your doctor disagree about treatment, a court will need to decide what will happen. The court must consider what's in your best interests. You can get legal help, see page 75.

### When can I get my own Medicare card?

You'll need to think about how you'll pay for your medical treatment. Some doctors 'bulk bill' under the government health system called Medicare. This means you won't have to pay. In other cases you have to pay but the government will refund you some of the money.

## Am I old enough?

Common legal issues for young people

You need to show your Medicare card or your parents' Medicare card when you go to the doctor. If you're over 15 you can apply for your own Medicare card. If you're under 15 you need to use your parents' card. If you're 14 or older, Medicare won't give information about your treatment to your parents. However, if you use your parents' card they may find out themselves that you went to a doctor.

### Do I need my parents' permission to get contraception?

If you're under 18 you may be able to get contraception, like the pill, from a doctor. This depends on whether the doctor thinks you're mature enough to understand what you're doing and to use the contraception properly. Make sure you know your doctor's policy about confidentiality.

There's no age restrictions on who can buy condoms. Most chemists and supermarkets sell them.

### Girls: What are my options if I'm pregnant?

It's important to know you have options. There are people you can talk to. A counsellor, nurse or doctor can help you think through your choices.

These can include:

- going ahead with the pregnancy and keeping the baby
- going ahead with the pregnancy and adopting out the baby
- having an abortion.

Medical and health professionals shouldn't judge your situation. Your decisions should be private. If you're not happy with the medical or health professional you're talking to, you can get a second opinion or make a complaint.

See also 'Where to get further help and information' on page 46.

There's no minimum age for keeping your baby. What matters is your ability to support yourself and the baby, and to make sure the baby is safe. If you're under 16 and someone's worried about your welfare or your baby's, that person may call the Department of Human Services, see 'Reporting child abuse or neglect' on page 39.

### Boys: What are my responsibilities if I get a girl pregnant?

You're legally responsible for financially supporting the child. It doesn't matter how young you are. If you can't support the child because you're still at school and don't earn any money, you may have to pay later when you can afford to.

If you're proved to be the father, you have to make child support payments until the child is 18.

### Are there age limits for getting an abortion?

If you're thinking about having an abortion, get advice from a doctor or Family Planning Victoria early in your pregnancy. You can still have an abortion up to 24 weeks of pregnancy but there's a lot to consider.

There's no age limit on getting an abortion. You may be able to get an abortion without your parent's or guardian's consent if the doctor thinks that you're mature enough to understand what you're doing.

### Am I old enough to use a sun-tanning unit?

The law says that if you're under 16 or if you have fair skin that burns not tans, you can't use sun beds (ultraviolet sun-tanning equipment). If you're 16 or 17, you must have your parent's or guardian's consent. The government can fine a business a large amount of money if they ignore this law.

### Am I old enough to get a tattoo?

You can't have someone tattoo you or perform scarification, beading, branding and tongue splitting on you before you're 18, unless it's for medical purposes.

## Am I old enough?

Common legal issues for young people

### Am I old enough to get a body piercing?

If you're under 16 you must have permission from your parents or guardian to let someone to pierce your ears, or any part of your body.

It's illegal for people under 18 to get a piercing in an 'intimate area', such as genital and nipple studs and rings.

#### Where to get further help and information

- Action Centre – free and confidential information about sexuality, pregnancy, sex, contraception, family counselling, sexually transmitted infections. Call 9654 4766 or 1800 013 952 (country callers)
- Centre for Adolescent Health – for free support and referral call 9345 5890
- Department of Health – for information about having a baby, visit [www.health.vic.gov.au/maternity](http://www.health.vic.gov.au/maternity)
- Family Planning Victoria – visit [www.sexlife.net.au](http://www.sexlife.net.au) and click on 'Youthcentre'
- Health Services Commissioner complaints and information – call 8601 5200 or 1800 136 066 (country callers). Call this service if:
  - you haven't been treated well by your doctor, a hospital or any health service, like a dentist, physiotherapist or pharmacist
  - a health professional hasn't treated your privacy respectfully
  - you've had difficulty getting your health information
- Medicare – call 132 011 or visit [www.medicareaustralia.com.au](http://www.medicareaustralia.com.au)
- Office of the Public Advocate – visit [www.publicadvocate.vic.gov.au](http://www.publicadvocate.vic.gov.au) and follow 'Medical Consent' link
- Somazone – health information for young people, visit [www.somazone.com.au](http://www.somazone.com.au)
- Youth Central – visit [www.youthcentral.vic.gov.au](http://www.youthcentral.vic.gov.au) and follow 'Health & Relationships' link

You might want a copy of our free booklet:

- *Child support and parentage testing*

For copies call 9269 0223 or visit [www.legalaid.vic.gov.au/publications](http://www.legalaid.vic.gov.au/publications)

## Out there

What happens 'out there' in everyday life is hard to predict. Have you had problems with security guards, drugs, weapons, fights or alcohol? You might think it won't happen to you but it helps to be prepared and know your rights.

### Cigarettes

No-one is allowed to sell you cigarettes or tobacco, buy cigarettes or tobacco for you, or let you buy cigarettes or tobacco from a machine on their premises if you're under 18. It isn't against the law to smoke or carry cigarettes or tobacco if you're under 18 but if you're a student, this could be a reason for your school to suspend you.

### Alcohol

You can't drink, buy or possess alcohol until you're 18, unless:

- you're in a private home – your house or someone else's house
- you're in a hotel or restaurant and you're having a meal with your parents, guardian or spouse (who is 18 or older). You can only go into licensed premises (like a pub or club that sells alcohol) if you're with your parents, guardian or spouse and you're having a meal there or you're staying the night.

If you leave the private home or the licensed premises, and you take your drink with you, you'll be committing the offence of underage drinking in public. The person who gave you alcohol could be fined for supplying alcohol to a minor.

# Am I old enough?

Common legal issues for young people

Alcohol affects your judgment and behaviour. You might end up doing things you wouldn't do if you were sober. There's a higher chance you could end up in trouble – committing minor offences like using indecent language right up to serious assaults. It doesn't matter whether this happens somewhere private or licensed, or in public.

The police or a staff member can ask for your name and address if you buy or have alcohol. They can take alcohol away from you if you're under 18 and if they think it's illegal for you to have it. In some public places, like at a Moomba parade or some music events, it's illegal to carry or drink alcohol no matter how old you are. Your school may also suspend you if you have alcohol at school.

Remember, if you're on L-plates or P-plates, you're not allowed to drive if you've had any alcoholic drinks.

## Parties

It's a good idea to plan carefully before you have a party. Think about whether you want to restrict the guests to those you have invited. Gate crashers can sometimes cause things to get out of hand. The police could hold you or your parents responsible if someone is injured while they're at your house. This may be more likely to happen if your guests are drunk. The police could also charge you with making a public nuisance if the party gets out of hand.

There are restrictions on when you can play loud music or make a lot of noise. The law restricts noise from musical equipment to 10 pm on weeknights (Sunday to Thursday) and after 11 pm (Friday and Saturday). Let your neighbours know a week or more before the party. They may understand if there's a little more noise than usual.

## Drugs

There are many laws about illegal drugs. The four most common drug-related laws are about using, possessing, trafficking and cultivating a 'drug of dependence'.

### Using

This includes smoking, inhaling fumes, injecting or swallowing a drug. The police can charge you if you admit to using. The police can also charge you with 'introducing a drug into the body of another person' if you inject someone else or slip a drug into someone's drink without their knowledge.

### Possessing

This means having a drug on you (like in your pockets or bag) or in a house or place where you live. This includes cannabis plants. The police might also charge you with possession if they find drugs in a car you own or a car you're driving.

### Trafficking

This usually means selling a drug but it can include exchanging, agreeing to sell or offering drugs for sale (even if you don't go through with the deal). The police can also charge you with trafficking if you:

- sell or offer to sell someone a harmless substance, acting as though the substance is an illegal drug
- manufacture drugs or prepare them for selling
- possess a 'traffickable quantity' of drugs (this amount is different depending on the type of drug)
- help someone else to do any of the above (like picking up someone else's drugs for them).

Selling drugs to a friend could be trafficking. Trafficking is a serious offence and the penalties can be very harsh.

### Cultivating

This means growing a drug, like marijuana or opium poppies. It's an offence to plant, look after or harvest a 'narcotic plant'. Growing drugs to sell is considered trafficking.



# Am I old enough?

Common legal issues for young people

If you're a student, on top of getting charges from the police, your school can suspend or expel you from school for using, possessing or providing other people with drugs.

Taking drugs prescribed for you by your doctor is legal. If you have to take prescription drugs at school, let your year level co-ordinator know.

## Syringes and the law

It's legal to carry new and used syringes. However, never carry drugs on you if you're carrying syringes or visiting a needle exchange. Even if the police don't find drugs on you, they can still charge you if you admit to using drugs. The police can consider used syringes or traces of drugs as evidence of you using a drug of dependence.

Always dispose of syringes safely by:

- returning used syringes in a sharps container to a needle syringe program. You can get a free sharps container from the program
- get rid of the syringe in a public disposal unit, often found in public toilets.

Outreach needle syringe program services collect used syringes and give you new ones. Contact Direct Line for your nearest program, [see](#) page 54.

There are penalties for unsafe disposal of used syringes. If you throw syringes down toilets or on the street, they end up at sewerage plants or get washed up on the beach. Somebody may get hurt.

## What should I do if someone has taken a drug overdose?

If you think someone has overdosed, call an ambulance immediately. Phone 000 and say someone needs urgent medical attention. You can call 000 even if you have no credit on your phone. If there is no mobile coverage, your phone will tell you what number to use.

Tell the ambulance officers as much as you can, like what drugs the person took, when they collapsed and any other health problems like asthma.

An ambulance worker isn't supposed to call the police. They might do this, however, if someone dies or if people feel threatened.

[See](#) also 'Speaking to the police' on page 60, 'Where to get help' on page 75.

## Graffiti laws

### Am I old enough to buy spray paint cans?

It's illegal for a business to sell you a spray can if you're under 18 unless you can prove that the spray can is for your work. Get a letter or statutory declaration from your employer to say this.

### Can I be searched by police for spray paint cans?

Yes but only if you're:

- 14 or over (or if you 'appear' to be 14 or over. Carry ID if you're under 14), and
- on or near public transport and the police suspect you have spray paint cans.

The police can search you if they think you've already committed or are about to commit a graffiti offence. For example, if you have paint on your fingers and there's wet graffiti nearby, the police officer is probably going to search you.

Police can search your bags and ask you to take off your coat, hat and shoes. You'll also need to give them your name and address.

### What happens if the police catch me with spray paint?

Unless you can prove you're using the paint for work, the police can charge you with a graffiti offence for:

- carrying spray paint cans on or near public transport
- carrying something that can be used to graffiti and the police suspect, or can prove, that you have used it (or were going to use it) for graffiti.

The police can issue you with an on-the-spot fine of at least \$550 or the court could sentence you to up to two years in jail.

## Am I old enough?

Common legal issues for young people

If you're a student, your school could also suspend or expel you if you're caught damaging school property with graffiti.

### Weapons and the law

There are strict rules for anyone wanting to own or carry a weapon. There are big penalties too. The police could give you an on-the-spot fine or the court could order you to go to jail.

If you're at school and the school thinks you're carrying a weapon they can call the police to search you and your locker.

### Guns

The law says you can't own or buy a gun until you turn 18. You must register the gun with the police and have a licence for it.

If you're aged between 12 and 17, you can get a licence for a gun from the police but only for learning how to use a gun for sport.

You'll only get a licence if:

- your parents or guardian agree in writing
- you're a member of an approved shooting club
- you've done a firearms safety course
- you're a responsible person.

If you get the licence, you can only use a gun with a person over 18 who has a shooters licence.

Anyone can use an airgun or air rifle in a shooting gallery at a show or amusement centre.

### Other weapons

The law says you can't carry, possess or use a weapon to hurt people or to defend yourself. You can't carry knives, like flick knives, daggers, butterfly knives or knuckle knives. It is a very serious offence to have a knife within 20 metres of a licensed premises and the penalties are doubled. You also can't carry weapons like nunchakus, batons, knuckle-dusters, shanghais, blow guns, capsicum spray, slingshots, weighted or studded gloves, throwing stars or catapults.

If you can prove you have a 'lawful excuse' (legal reason), you may carry or possess some weapons like a sword, large crossbow or imitation firearm. A lawful excuse could include having the weapon for work, for sport, for a weapons' collection, display or exhibition. Lawful excuse doesn't include self-defence. You can only carry or possess some weapons if you do so safely.

If the police tell you they believe you're illegally carrying a weapon, they can search you and your car without a warrant. If they find a weapon, they can take it off you.

See also 'Speaking to the police' on page 60.

### What are 'dangerous articles'?

Dangerous articles can include things like an axe, a cricket bat or a hammer.

You can't carry or possess an object that has been adapted for use as a weapon unless you have a lawful excuse. It's also an offence to carry an article with the intention of using it as a weapon.

In the case of dangerous articles, a lawful excuse can include having the weapon for work, for sport, for a weapons' collection, display or exhibition, but not self-defence.

### Am I a victim of crime?

No matter how old you are, if you've been hurt (physically or mentally) or have lost property or money as a result of a crime, you may be able to get financial help, compensation and counselling. Make sure you report the crime to the police as soon as you can. You can still apply to get compensation even if the person who did the crime doesn't end up going to court or goes to court and is found 'not guilty'. As long as the offence was serious enough, you'll be able to apply to get compensation. If you're under 18 your parents or guardian have to apply.

## Am I old enough?

Common legal issues for young people

### Are there age restrictions for gambling?

The legal age for gambling in Victoria is 18. This includes playing the pokies, betting on horses or buying lottery tickets and 'scratchies'. It's illegal to go into a gaming room or casino if you're under 18, even if you're with an adult.

#### Where to get further help and information

- Australian Drug Foundation – visit [www.adf.org.au](http://www.adf.org.au)
- Direct Line – for free, anonymous and confidential 24-hour drug and alcohol counselling, information and referral. Call 1800 888 236 (free call) or visit [www.health.vic.gov.au/drugs/directline](http://www.health.vic.gov.au/drugs/directline)
- Frontyard Youth Services – call 1800 800 531 (free call) or visit [www.frontyard.org](http://www.frontyard.org)
- Gambler's Helpline – 24 hours, 7 days a week for free confidential telephone counselling and referral service on 1800 858 858. Or visit [www.problemgambling.vic.gov.au](http://www.problemgambling.vic.gov.au)
- Kids Helpline – call 1800 551 800 (24 hours, free call) or visit [www.kidshelp.com.au](http://www.kidshelp.com.au)
- Lawstuff – lots of legal topics for young people. Email them with your legal questions. Visit [www.lawstuff.org.au](http://www.lawstuff.org.au)
- Somazone – health information for young people. Visit [www.somazone.com.au](http://www.somazone.com.au)
- Victims of Crime Assistance Tribunal – call 9628 7855 or 1800 882 752 (free call) or visit [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au)
- Victims Support Helpline – call 1800 819 817
- Youth Substance Abuse Service – 24 hours a day for confidential counselling and referral on 1800 014 446 (free call) or visit [www.ysas.org.au](http://www.ysas.org.au)

You might want a copy of our free booklet:

- *Drugs, the law and safer injecting*

For copies call 9269 0223 or visit [www.legalaid.vic.gov.au/publications](http://www.legalaid.vic.gov.au/publications)

## Buying things

We all buy things. Sometimes it's a small thing like a piece of clothing, sometimes it's a bigger thing like a car or TV. Regardless of what you're buying, there are laws about exchanging things you've bought and about contracts between the buyer and the seller. Spending more than you can afford is an easy trap to fall into. This section includes contacts for organisations that can help you manage your money.

### What is a contract?

A contract is an agreement between two parties which the law says must be carried out. Most contracts do not have to be in writing. You can have an oral contract. For example, when you buy something, you and the seller have made a contract with each other whether you signed anything or not. But if you're buying a car, you do have to sign a written agreement.

### Am I old enough to agree to a contract?

If you're under 18, you have to stick to a contract if:

- you've bought things you need to live on, like food, housing, clothing or medicine
  - it helps you with employment or education
  - what was agreed to under the contract has already happened.
- For example, if you bought something you won't be able to get a refund just because you're under 18.

If you've completed the contract – for example, you've paid all the money – you may not be able to go back on the contract unless:

- the goods are faulty
- the sales assistant told you the goods were for a particular purpose but they're not – for example, the sales assistant told you that a plate was microwave safe but when you used it in the microwave it broke.

# Am I old enough?

Common legal issues for young people

## What is a guarantor?

Because under-18-year-olds don't have to stick to contracts except for the reasons above, shops and companies that lend money may not let you use a credit card or borrow money without a guarantor. A guarantor is someone aged 18 or over who promises that you'll stick to your side of the contract and that they'll pay if you don't. If you don't pay, the seller or moneylender can take the guarantor to court as well as taking legal action against you. Usually you can't buy a car without a guarantor.

## Exchanging goods and refunds

Choose carefully when you buy something. The shop owner doesn't legally have to give you a refund or exchange goods just because you change your mind. If you're not sure about buying something, talk to the sales assistant. Tell them what you want the goods for and find out if it's what you need.

Some stores, like bigger department stores, will give you a refund or exchange goods if you change your mind but it's up to the store. The store does have to give you a refund if the goods are faulty or if the sales assistant told you the goods were suitable for a particular purpose but they weren't. However, when you buy something it's always worth asking the sales assistant if you can bring it back and get a refund or exchange if the goods aren't right or if you change your mind. If the sales assistant says yes, then you're entitled to get a refund or exchange. Keep the receipt as proof of your purchase.

Many shops have a sign near the cash register about their policy on exchanges and refunds. A sign that says 'No refunds' is illegal. Even a policy saying 'No refunds on sale items' is breaking the law.

A shop must give you a refund for goods that are faulty, regardless of whether you bought the goods on sale or not.

If you think you should get a refund but the shop refuses to give it to you, you can complain to Consumer Affairs Victoria or to the Australian Competition and Consumer Commission. See 'Where to get further help and information' on page 59.

## Private sales

The laws about exchanging goods and getting a refund don't apply to sales between private individuals, like friends or family. Make sure you buy what you want and that it works.

## Buying 'odgy' goods

If you're buying things from friends or privately, like at a market or second-hand stall, check that the person selling the goods has the right to sell them. This means that the goods aren't stolen. It's worth asking for proof of ownership or evidence that the seller has authority to sell. If the goods are stolen, the original owner may be able to claim them back.

## Buying things online

If buying from an online store, check what that store's refund or return policy is before you pay. Make sure you know what you're paying for. Do you pay for it once? Do you have to make repeat payments?

Some sites have services that can help you sort out disputes with sellers, for example, if what you bought doesn't match the item's description.

Other private online sales can be risky. The person you're buying from may live in another state or overseas so getting your money back may be hard. You might be able to get help from your credit card provider. Some providers have services to help when online purchases go wrong.

## Am I old enough to get a mobile phone contract?

You have to be 18 to sign a mobile phone contract. Often young people ask their parents to sign the contract. This means your parents have to pay if you can't. Technically the contract can be transferred into your name once you're 18. In reality this can be hard as you need to have a credit check, more than one form of ID and a credit card.

You can get a prepaid phone at any age.

# Am I old enough?

Common legal issues for young people

If you're thinking about getting a mobile phone, remember:

- There's no such thing as a free phone. There's always a catch. The cost of 'free' handsets may be included in the monthly bill or may mean higher call costs. Check the contract for hidden costs. Shop around and get advice.
- Work out if you can afford to pay the minimum monthly payment for the whole contract period, which can be as long as three years. Once you sign up, it's hard to break the contract.
- The person who signs the contract is responsible for paying the bills or making sure the bills get paid.
- Read and understand the contract. If you don't understand it, don't sign it.
- If your phone is stolen, lost or cut-off because of non-payment of bills, you still have to pay out the rest of your contract.
- All calls are timed. So if you talk for ages, bills will be expensive. One way of making sure you don't end up with a huge bill is to get a prepaid account.
- If you download ringtones or pictures to your mobile, check it is a one-off download and not a subscription service that sends you more ringtones or pictures that you have to pay for. Keep the 'unsubscribe' information so you can stop the service.
- If your phone gets stolen, ring your phone company immediately. You pay for all calls until the phone is reported missing.
- If you buy a second-hand phone make sure the SIM card is unlocked. Some carriers charge to unlock SIM cards.
- If you want to take your phone to school, check first if there is a policy about mobile phones. Some schools don't let students take phones to school.

## Where to get further help and information

- Australian Competition and Consumer Commission – call 1300 302 502 or visit [www.accc.gov.au](http://www.accc.gov.au)
  - Consumer Action Law Centre – call their Legal Advice Line 9629 6300 or 1300 881 020 or visit [www.consumeraction.org.au](http://www.consumeraction.org.au)
  - Consumer Affairs Victoria:
    - call 1300 558 181. Open Monday to Friday, 8.30 am to 5.00 pm
    - visit [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)
    - or go to their walk-in service centre located at 113 Exhibition St, Melbourne.
  - Telecommunications Industry Ombudsman – for complaints about bills, contracts, coverage and network faults call free on 1800 062 058
- Victoria Legal Aid Legal Information Service – call 9269 0120 or 1800 677 402 (country callers), Monday to Friday, 8.45 am to 5.15 pm**

## Police, bouncers and transport inspectors

When dealing with the police, security guards or public transport inspectors it's important to try to stay calm and polite. Don't resist and don't be abusive or violent. Be firm about your rights. If you're not happy with how you were treated, you can make a complaint.

### Speaking to the police

Your main rights if you're under 18:

- the right to legal advice
- the right to say 'no comment' – also known as the right to silence
- the right to let someone know if you're arrested
- the right to have an adult with you during questioning.

In general, you have the right not to answer any questions, except those about your name and address. For example, you could answer 'no comment' or stay silent to all other questions. It can be a good idea to use this right because what you say to the police, no matter when or where, could be used by them.

### There is no such thing as 'off the record'

The police may use what you say to decide whether or not to arrest or charge you, or it might be used against you in court. Tell the police you want to use your right to remain silent.

However, there are limits on this. For example, saying 'no comment' may not be an option if you have been charged and you want to do the diversion program. Diversion means you will go out of the court system and you will not get a sentence or a criminal record. To get diversion, however, the police need to agree to it. Often police won't agree to diversion if you say 'no comment'. The diversion program is normally only available for first time offenders.

If you're interviewed, held, arrested, charged or about to be charged, always get legal advice, see 'Where to get help' on page 75.

If you threaten to hurt or assault the police, the police could charge you with 'resisting arrest' or 'hindering police in the exercise of their duty'.

### Name and address

It's a criminal offence to refuse to give your name and address, or to give false details to the police or public transport officers.

The police may ask for your name and address because they believe:

- you've broken the law
- you're about to break the law
- you're able to help them with information about an indictable (serious) offence.

The police must tell you why they want your details. If they don't give you a reason, you should ask for it.

The police can demand your name and address without giving a reason if you're:

- driving a car, motorbike, boat or bicycle
- on the tram, train, bus or on public transport property (public transport officers can also ask for your name and address)
- in a hotel or licensed premises (staff can also ask for your age).

If police want you to go with them to a police station, you can refuse unless they are arresting you or in special circumstances such as:

- when you're driving and they want to do a breathalyser or drug test
- they're investigating a report of family violence
- they believe you're mentally impaired and need to be taken into custody.

Always ask why they want you to go with them. If you ask the police, they must also give you their name, police station and rank. You can ask for this in writing.

# Am I old enough?

Common legal issues for young people

## When can the police search me?

Police have the right to search you:

- at any time in a public place if they believe you may be carrying illegal drugs, stolen goods or firearms
- if you're under 18 and they suspect you're going to inhale a volatile substance (chroming). It's not a crime to chrome. The police can stop you and take you somewhere safe if they think you'll hurt yourself by chroming
- if you're in custody or under arrest if they believe you're carrying a weapon.

You must be searched by a police officer of the same sex as you, unless it's an urgent situation and there's no-one of the same sex available. If the police search you, they can also:

- search anything you're carrying
- search the car you're travelling in
- take things from you that could be used as evidence.

If the police stop you they must make a record of this. You can ask for a copy of the record. If police search you for a weapon, they must give you a copy of this record if you ask for it.

## Where can the police search me?

### In general

The police can search you in any public place including a shop, at the train station, on public transport (buses, trams or trains) or in a hospital or welfare centre. The police can only search you at school if the principal agrees.

### In 'designated' search areas

The police have the power to search you in certain 'designated' areas, even if there's no reason to suspect that you're carrying illegal drugs, stolen goods or a weapon.

A designated area is a place where:

- there was more than one incident of violence involving weapons in the last 12 months
- there's going to be an event in that area and there were violent incidents involving weapons when the event was on before (even if the event was somewhere else)
- the police think that an incident involving the use of weapons is about to happen.

The police must publicise that they're going to do a search. The police do NOT have to do this if they're searching areas where they believe there's going to be a weapons-related offence and doing a search will stop this from happening. The areas can stay 'designated areas' for usually no more than 12 hours.

If you refuse to be searched within this designated search area, the police can charge you with refusal to be searched.

The police don't have to make a record of these searches. If you ask them to, the police officer searching you must tell you their name, rank and the police station they're from. You can also ask them to put this in writing.

Searches, other than searches with an electronic metal detector, must be conducted in the presence of your parent, guardian or independent person, unless the search is urgent. The police can also strip search you if they believe that you're carrying a weapon.

**Note:** Later in 2010, the laws about designated searches will change. The police will have more power to do planned and unplanned searches. The police will be able to search under 18 year olds in unplanned areas without a parent, guardian or independent person present if its not practical for police to get them to be there.

For more information about 'Weapons and the law', see page 52.

## Are there different types of searches?

Yes, there are three types of personal searches the police can do:

- **pat-down search:** this is the most common type of search where police use their hands to feel over the outside of your clothes. They may also ask you to empty your pockets or take off your jacket, shoes or hat. The police can use a metal detector to look for something they 'reasonably suspect' is a weapon. These searches can be done in public or private
- **strip search:** the removal and search of all clothing. The police must do these searches in a private place, usually at a police station. A parent, guardian or independent person can usually be with you during the search
- **internal body search:** only doctors can do these. The doctor must be the same sex as you. You have the right to say no if the police want to do an internal body search. The police may ask the court for permission to do the search. They must have very strong evidence to justify the search.

## Your rights before police questioning

You have rights. This includes the right to remain silent. You should talk to a lawyer about this before the questioning starts. Also, the police must let you:

- **call a lawyer from a private space (this means somewhere that the police can't hear you).** The police may be able to call a legal advice line for you
- **call a friend or relative from a private space.** However, the police don't have to allow this if it is a driving matter involving drinking or drugs or if they believe that during this time:
  - someone else involved in the crime might get away
  - some evidence may be lost or tampered with
  - other people may be in danger.

## Your rights during police questioning

If you're under 18, the police must not formally question you unless your parents or guardian are there – unless you don't want them there. If your parents or guardian can't be there, the police must arrange for an independent person to be with you during questioning. You must be given the chance to talk privately to your parents, guardian or the independent person before the questioning.

While you're waiting to speak to them, you should refuse to answer any questions after giving your name and address.

The independent person is there to make sure you and the police understand each other and that you understand your rights. They don't give legal advice. Either you or the police can suggest who will be the independent person.

If an independent person is not with you during questioning, the court may decide that the information can't be used as evidence.

When the police are questioning you, you have the right to remain silent, and to answer 'no comment' or stay silent to all the questions except those about your name and address. You can't get in trouble for saying 'no comment' or staying silent and it shouldn't affect whether you get bail or work against you in court. If the police record the interview, they should give you or your lawyer a copy of the interview within seven days.

The police don't have to wait for a parent, guardian or an independent person to arrive before questioning you when someone else involved in the crime might get away or if waiting may cause danger to other people.

# Am I old enough?

Common legal issues for young people

## Am I old enough for the police to fingerprint me?

There are different rules depending on your age:

- **under 10** – the police aren't allowed to fingerprint you
- **10 to 14** – you and your parents or guardian must agree before the police can take your fingerprints. You don't have to agree to this. If you or your parents or guardian refuse fingerprinting, the police have to get permission from the Children's Court
- **15 to 17** – your parents, guardian or an independent person must be with you when the police ask to take your fingerprints. They must also be there if the police take your fingerprints
- **17 years and older** – in most situations you have to let the police take your fingerprints if they believe you've committed an offence. This isn't the case in some minor offences like jaywalking and littering.

## What happens if I refuse to give my fingerprints?

The police can use 'reasonable force' to get them. Reasonable force means the police may physically restrain you. If you're 16 or younger, the police must audiotape or videotape this.

The police must destroy your fingerprints within six months if the police don't charge you or the court finds you 'not guilty'. The police must also destroy your fingerprints if you don't re-offend before turning 26 (unless the police charged you with a serious offence like murder, assault or rape). Check with the police to make sure that this has been done.

## What is a 'forensic procedure'?

A forensic procedure is a physical examination. Some forensic procedures involve taking 'intimate' body samples, like blood, pubic hair, anal, genital or breast swabs, saliva, and mouth or dental impressions.

A qualified doctor or dentist must carry out these procedures. The police must tell you beforehand that you don't have to answer any questions the doctor or dentist ask you.

The police can take 'non-intimate' body samples from you, like hair, fingernail or toenail scrapings and some external body swabs. Depending on your age, different rules apply if the police want to get body samples:

- **under 10** – police can't take a body sample from you
- **10 to 17** – police can only take a body sample if they get a court order. A parent, guardian or independent person must be with you if the police take a body sample
- **18 years or older** – you don't have to agree to give body samples. If you refuse, the police can apply to a court for permission to take a sample or a senior police officer can give the go ahead for non-intimate body samples.

You should always get legal advice before agreeing to give any blood or a body sample.

## Why do the police want to take my photo?

The police may want to take your photo so they can identify you when you're being:

- kept in a police cell
- released from custody on bail with conditions that you report to a local police station.

If you're between 10 and 18, your parents or guardian must agree (or the court must order it) before the police can photograph you.

If you're under 10 the police can't photograph you.

The police may want to photograph you without your permission, like when you're sitting in the waiting room or in a cell. You don't have to show a tattoo or part of your body. You have the right to say no. You can also complain to a senior officer at the station.

## Am I old enough?

Common legal issues for young people

### What if the police want me to be in an identification parade?

Talk to a lawyer before you agree to be in an identification (ID) parade. You have the right to refuse and the police can't force you to do it. An ID parade is where the police put you in a line of people to see if a witness can identify you as the person who committed the offence. A witness is a person who saw or heard something about your case, like someone who was injured by the offence. If you take part in an ID parade, you may be mistakenly identified by the witness as the person who committed the offence.

### Can I complain about the police?

Yes, if the police have done something you think is wrong, you can make a complaint to the senior sergeant of the station or the Ethical Standards Division of Victoria Police. If you want to complain, do it quickly. First, write down what you remember happening and get legal advice, especially if the police have charged you with an offence. See 'Where to get help' on page 75. If you're hurt, go to a doctor immediately.

The Office of Police Integrity handles complaints about police corruption and serious misconduct. This includes where police officers acted dishonestly, abused their power or broke the law.

Call 8635 6188 or 1800 818 387 (toll free) or visit [www.opi.vic.gov.au](http://www.opi.vic.gov.au)

### Can I complain about my lawyer?

Yes, you can complain to the Legal Services Commissioner on 1300 796 344 (local call within Victoria) or 9679 8001.

### Bouncers and security guards

There are many different kinds of security staff with different roles and powers.

Shopping centres and managers of other public places employ security guards to make sure all people can use the space safely. In public places, like parks, security guards have the same powers as any other person. In privately owned places, like nightclubs, security guards can have wider powers depending on what the owners ask them to do. Some places are both private and public, like shopping centres.

You can question the powers of security guards if you believe the guard is being over the top.

Security staff must wear identification badges and tell you their name and identification number if you ask them for it.

### What security staff can and can't do

If a security guard sees you doing something that isn't allowed in that area, like smoking or riding a bike in a shopping centre, they can ask you to leave. If you refuse, they can remove you from the premises using 'reasonable force'.

A security guard can arrest you if they see you committing an offence. This is the same as a 'citizen's arrest'. A security guard can also hold you until the police arrive. You don't have to answer any questions a security guard asks you.

A security guard can ask to search your bag. You can refuse. You can also withdraw your permission at any time during the search. However, searching your bag may be a condition of entry to some places, like shops or sports stadiums.

A security guard can't:

- use too much force
- arrest, hold or question you if they only suspect you have committed an offence
- ask you to leave an area because of your age (unless it's a legal requirement, for example, you're under age), race, mental illness, disability or because you may be gay or lesbian.

# Am I old enough?

Common legal issues for young people

## How to complain about security staff

The Licensing Services Division, which is part of Victoria Police, issues licences for security staff. The division can investigate complaints about security guards, crowd controllers and security companies, and can suspend or cancel a security licence or registration.

Call them on 1300 651 645 if you're thinking about making a complaint.

Then make the complaint in writing to:

- Regulation Support Unit, Licensing Services Division GPO Box 2807 Melbourne 3001 or
- [lsdintel@police.vic.gov.au](mailto:lsdintel@police.vic.gov.au) or [licensingervices@police.vic.gov.au](mailto:licensingervices@police.vic.gov.au)

Security companies have a code of practice they must follow. Find out which association the company belongs to and make a complaint. The Australian Security Industry Association covers most companies, call (02) 8425 4300 to check if the company is a member.

## Tickets and ticket inspectors on public transport

The law says you have to travel on public transport with a valid ticket.

You can travel without a valid ticket if:

- before and after your journey, you took all 'reasonable steps' to buy a ticket
- you had 'no reasonable opportunity' to buy a ticket while making your journey, such as when the ticket machine wasn't working.

There's no definition of 'reasonable steps' or 'reasonable opportunity'. It depends on your circumstances.

It may be reasonable to travel without a valid ticket if:

- ticket machines weren't working at the start of your journey and you couldn't purchase a ticket during or after your journey
- you had a pre-purchased ticket but the 'validators' weren't working or your ticket was faulty and wouldn't validate

- an inspector approached you while you were queuing to use the ticket machine having just gotten on a tram
- a tram was so crowded that you couldn't get to the ticket machine or validator.

An inspector may take your ticket if you don't validate the ticket for your trip. The inspector should offer you a 'travel permit' so you can finish your trip. You can apply to have your ticket returned if, for example, it's a weekly ticket that you can use later.

## Can ticket inspectors ask for my name and address?

Inspectors can only ask for your name and address if they believe on 'reasonable grounds' that you have committed or are about to commit a public transport offence. This may include travelling without a valid ticket. The inspector must tell you why they believe this, so that you understand what the offence is. If you refuse to give your name and address, or give false information, you may be charged with an offence and can be arrested.

You can ask the inspector for their name and where they work. You can ask for this in writing. An inspector can be fined for not giving you this information.

The inspector must show you their identity card if you ask to see it.

Inspectors can ask you to prove that your name and address is correct if they believe on 'reasonable grounds' that the details are false.

## Do transport inspectors have the power to detain and arrest me?

Inspectors can only detain or arrest you without warrant if they believe on 'reasonable grounds' that it is necessary, such as to make sure you go to court. Inspectors must use no more force than is reasonable to detain you. What is reasonable depends on the circumstances. Inspectors must hand you over to the police as soon as possible.

## Am I old enough?

Common legal issues for young people

### If you are fined

If the Department of Transport gives you a fine for a public transport offence, and you disagree that you committed the offence, get legal advice before paying the fine. See 'Where to get further help and information' below. You can also have the Children's Court hear your case. The court can reduce the amount of the fine. It can also set up an instalment plan where you can pay the fine off bit by bit. If you can't pay the fine you can ask to go before a magistrate who may give you a different penalty, like a good behaviour bond.

#### Where to get further help and information

- Children's and Young Person's Infringement Notice System (CAYPINS) helpline – call 1300 787 711
- Public Transport Ombudsman Victoria – call 8623 2111 or 1800 466 865 (country callers) TTY: 1800 809 623
- Public Transport Users Association – call 9650 7898 or [www.ptua.org.au](http://www.ptua.org.au)
- Youthlaw – call 9611 2412, email [info@youthlaw.asn.au](mailto:info@youthlaw.asn.au) or visit [www.youthlaw.asn.au](http://www.youthlaw.asn.au)
- Youth Referral and Independent Person Program (YRIPP) – support for young people under 18 being held in police custody, which includes a 24-hour legal advice line and eight regional offices. For more information visit [www.cmy.net.au/YRIPP/YRIPPHome](http://www.cmy.net.au/YRIPP/YRIPPHome)

#### You might want a copy of our free booklet:

- *Police powers: your rights in Victoria*

For copies call 9269 0223 or visit [www.legalaid.vic.gov.au/publications](http://www.legalaid.vic.gov.au/publications)

Victoria Legal Aid Legal Information Service call 9269 0120 or 1800 677 402 (country callers), Monday to Friday, 8.45 am to 5.15 pm

## Courts and tribunals

Courts and tribunals are where arguments are sorted out and decisions are made. A court may be asked to decide where you will live or whether you committed a crime, or you can ask for help from a court if you believe your rights have been violated. Talk to a lawyer.

### What happens if I am taken to court?

#### By the police

You can be taken to the Children's Court if the police:

- charge you before your 18th birthday and
- you go to court before your 19th birthday.

If you're older you'll go to the Magistrates' Court. The police can't charge you if you're under 10.

If you're 19 or over, the Children's Court must still hear your case if it began in the Children's Court when you were under 19, unless the court thinks there are exceptional circumstances (very good reasons) not to.

If the police have charged you with an offence, get legal help as quickly as possible. Talk to a lawyer. See 'Where to get help' on page 75.

#### For unpaid fines

The Children and Young Persons Infringement Notice System (CAYPINS) in the Children's Court now deals with unpaid infringement notices (fines). Infringements can include not having a valid train ticket or driving a car without a licence.

#### By someone else

Someone can sue you if you hurt them or caused them to lose money because of something you did. But the court will only hold you responsible if, at your age, you should have known that what you did would cause that damage or loss.

## Am I old enough?

Common legal issues for young people

A person under 18 can only sue another person by getting an adult, usually their parents or guardian, to do it for them.

### By the Department of Human Services

If the Department of Human Services thinks you're unsafe because your parents or guardian don't or can't look after you, you may be taken to the Children's Court. This is a welfare case, not a criminal case, so you're not in trouble. You will go to the Family Division of the court.

See also 'Am I old enough to leave home?' (page 21), 'Reporting child abuse or neglect' (page 39).

### Legal advice before court

It's always a good idea to get legal advice before going to court. For example:

- if the police want to interview you
- if the Department of Human Services wants you or your family to sign an agreement that means you or a parent have to leave home.

### Legal advice after court

Sometimes you may need legal advice after a court case is over. For example:

- if you don't understand what happened at court
- if you disagree with what happened at court and you want to find out about changing the decision.

There are strict time limits for changing a court decision, so act quickly to get legal advice. See 'Where to get help' on the next page.

## Where to get help

There are many ways to get free legal information and advice. There are lots of people and organisations who can help you. If you need information, don't be shy - go get it.



Interpreter

### If you need an interpreter:

Call the Translating and Interpreting Service for an interpreter to help you speak to any of the agencies on the next page. Ask the interpreter to put you through to the agency you need. This is usually free.

Tel: 131 450

### If you are deaf or have a hearing or speech impairment:



Use the National Relay Service to phone any of the agencies (including Victoria Legal Aid) in this section. This is free. For more information about the NRS visit [www.relayservice.com.au](http://www.relayservice.com.au)

**TTY users:** Call 133 677 and then ask for the phone number you need. Include the area code.

**Speak and Listen users:** Call 1300 555 727 and then ask for the phone number you need. Include the area code.

**Internet relay users:** Connect to [www.iprelay.com.au/call/index.aspx](http://www.iprelay.com.au/call/index.aspx) and then ask for the phone number you need. Include the area code.

# Am I old enough?

Common legal issues for young people

## Victoria Legal Aid

### Legal Information Service

Tel: 9269 0120 or 1800 677 402 (country callers)

Arabic: 9269 0127

Persian (Farsi): 9269 0123

Croatian: 9269 0164

Polish: 9269 0228

Greek: 9269 0167

Serbian: 9269 0332

Italian: 9269 0202

Ukrainian: 9269 0390

Monday to Friday between 8.45 am and 5.15 pm

You can also get an interpreter from the Translating and Interpreting Service if you speak another language. Call 13 14 50 and ask to be put through to Victoria Legal Aid.

### Local offices

We have offices all over Victoria. See the back cover for office locations and phone numbers.

### Website

[www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

Useful websites with legal information for young people:

- [www.lawstuff.org.au](http://www.lawstuff.org.au)
- [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)
- [www.legalonline.vic.gov.au](http://www.legalonline.vic.gov.au)
- [www.youthcentral.vic.gov.au](http://www.youthcentral.vic.gov.au) – follow link to ‘Know Your Rights’
- [www.youthlaw.asn.au](http://www.youthlaw.asn.au)

If you live in the country, there are local organisations that may be able to help you. Contact your community information centre, community health centre, youth worker or school counsellor. Check the front section of your telephone book under ‘Community Services’.

## Federation of Community Legal Centres

The Federation will be able to give you the phone number of the community legal centre nearest you.

Tel: 96521500

## Victorian Aboriginal Legal service 24 hours

For Koori people.

Tel: 9419 3888 or 1800 064 865 (free call)

## Youthlaw

Tel: 9611 2412

Email: [info@youthlaw.asn.au](mailto:info@youthlaw.asn.au)

# Am I old enough?

Common legal issues for young people

## More information

Victoria Legal Aid has free booklets for the public with legal information on topics such as intervention orders, police powers, family law and going to court. Visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) to order or download or telephone 9269 0223 to find out more.



## What's the deal?

A teachers' kit about legal issues for young people aged 14 to 16.

Am I Old Enough?

# Am I old enough?

→ Common legal issues for young people

## Victoria Legal Aid

### Legal Information Service

Tel: 9269 0120 or country callers 1800 677 402

### Offices

#### MELBOURNE

350 Queen St  
Melbourne VIC 3000  
Tel: 9269 0120  
Country callers: 1800 677 402

#### Suburban offices

#### BROADMEADOWS

North western suburbs  
Level 1, Building 1  
Broadmeadows Station Centre  
1100 Pascoe Vale Rd  
Broadmeadows VIC 3047  
Tel: 9302 8777

#### DANDENONG

Westernport region  
Level 1, 9-15 Pultney St  
Dandenong VIC 3175  
Tel: 9767 7111

#### FRANKSTON

Peninsula region  
Cnr O'Grady Ave & Dandenong Rd  
Frankston VIC 3199  
Tel: 9784 5222

#### PRESTON

North eastern suburbs  
42 Mary St  
Preston VIC 3072  
Tel: 9416 6444

#### RINGWOOD

Outer eastern suburbs  
23 Ringwood St  
Ringwood VIC 3134  
Tel: 9259 5444

#### SUNSHINE

Western suburbs  
1/474 Ballarat Rd  
Sunshine VIC 3020  
Tel: 9300 5333

#### Regional offices

#### BALLARAT

Central Highlands region  
Area A, Level 1  
75 Victoria St  
Ballarat VIC 3350  
Tel: 5329 6222  
Toll free: 1800 081 719

#### BENDIGO

Loddon-Campaspe region  
424 Hargreaves St  
Bendigo VIC 3550  
Tel: 5448 2333  
Toll free: 1800 254 500

#### GEELONG

Barwon region  
Level 2, 199 Moorabool St  
Geelong VIC 3220  
Tel: 5226 5666  
Toll free: 1800 196 200

#### HORSHAM

Wimmera region  
29 Darlot St  
Horsham VIC 3400  
Tel: 5381 6000  
Toll free: 1800 177 638

#### MORWELL

Gippsland region  
Cnr Chapel & George St  
Morwell VIC 3840  
Tel: 5134 8055

#### BAIRNSDALE

Gippsland region (branch office)  
101A Main St  
Bairnsdale VIC 3875  
Tel: 5153 1975

#### SHEPPARTON

Goulburn region  
36-42 High St  
Shepparton VIC 3630  
Tel: 5823 6200

#### WARRNAMBOOL

South Coast region  
185 Fairy St  
Warrnambool VIC 3280  
Tel: 5559 7222  
Toll free: 1800 651 022

### Publication orders

To download or order our publications in English or other languages go to [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)  
If you need help ordering online please call Victoria Legal Aid on 9269 0223