

# Am I old enough?

Common legal issues for young people



Victoria Legal Aid

## Produced by Victoria Legal Aid

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For help with legal problems, call Legal Help on 1300 792 387

For business queries, call (03) 9269 0234

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**Disclaimer:** The material in this publication is a general guide only. It is not legal advice. If you need to, please get legal advice about your own particular situation.

**Changes to the law:** The law changes all the time.

To check for changes you can:

- call Victoria Legal Aid's Legal Help phone line on 1300 792 387
- visit Victoria Legal Aid's website at [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au).

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

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

Please ring us on 9269 0234 and ask for Publications.  
We can talk with you about what you need.

## **Victoria Legal Aid**

Victoria Legal Aid is a government-funded agency set up to ensure that people who cannot afford to pay for a private lawyer can get help with their legal problems. We provide free information for all Victorians, family dispute resolution for disadvantaged families, provide lawyers on duty in most courts and tribunals in Victoria, and fund legal representation for people who meet our eligibility criteria. We help Victorian people with legal problems about criminal matters, family breakdown, child protection, family violence, child support, immigration, social security, mental health, discrimination, guardianship and administration, tenancy and debt.

**For free information about the law and how we can help you, call Legal Help on 1300 792 387.**



# CONTENTS

About this booklet **1**

---

What do these words mean? **2**

---

Your life, your rights **4**

---

School, bullying and the internet **7**

---

Becoming independent **15**

---

Relationships **32**

---

Family and identity **39**

---

Health **47**

---

Out there **52**

---

Buying things **62**

---

Police, bouncers, authorised officers and PSOs **66**

---

Courts and tribunals **81**

---

Where to get help **83**

---



CÔME ON

SPORT

ACCELERATION



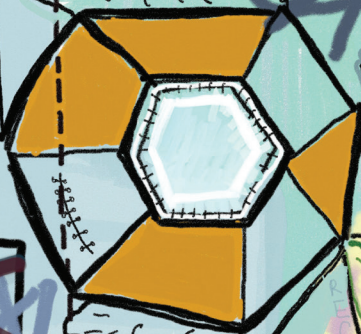
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SPORT

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XIEN: STREET



# 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.

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

This booklet focuses on Victorian law. All phone numbers are Victorian, unless specified otherwise.

## Getting more help

This booklet gives general information, not legal advice. We have put the contact details of legal organisations in the 'Where to get help' section on page 83. We also have the contact details of helpful organisations at the end of each section.

## Legal words

To help you, we have explained some words in 'What do these words mean?' on the next page. These words are also highlighted in bold the first time they appear in each section.



# WHAT DO THESE WORDS MEAN?

In every section of this booklet we highlight legal words in **bold** when they first appear. The definitions for these words are listed in this section. We have also included other legal words that you might hear used.





**arrest** – when the police hold you in custody because they think you have broken the law

**charge** – the offence the police say you committed

**confidential/confidentiality** – when what you say to someone will not be told to others unless you agree

**consent** – free agreement to do something

**contract** – a written or oral agreement between two parties (people or businesses) that is legally binding. Everyone in the contract must have legal capacity to agree to the contract

**evidence** – information (documents or witnesses) used by the court or tribunal to make a decision

**guardian** – someone who is legally responsible for taking care of another person or their property

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

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

**lawyer** – a trained person who gives legal advice and represents people in court

**offence** – an action the law says is wrong (illegal)

**penalty/penalties** – punishment for breaking the law

# YOUR LIFE, YOUR RIGHTS

You have rights and responsibilities, no matter how old you are.

Under the United Nations Convention on the Rights of the Child and Victoria's Charter of Human Rights and Responsibilities, you have the right to:

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

## **Your right to see a lawyer**

No matter how old you are, you have the right to speak with 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.

The information you give the lawyer is **confidential**. They can't tell anyone else, like police or parents or **guardians**, what you say unless you agree.

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 83. You can also pay a private lawyer for the legal advice.

If you have to go to the Children's Court, try to see a lawyer before going to court. A lawyer will give you advice at court and will speak on your behalf in 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.

## **Your right to be free of discrimination**

### **What is discrimination?**

Discrimination means being treated unfairly because of things like:

- age
- gender
- disability
- race
- religion
- sexual orientation
- gender identity, including transgender and gender diverse people
- intersex status
- marital status (whether you're married or not)
- parental status (whether you're a parent or carer).

It's illegal to discriminate against someone on these grounds in certain areas of public life.

It's illegal for someone to discriminate against you because you are a friend or relative of someone who has one of these characteristics.

### **When is discrimination against the law?**

Discrimination is against the law if it happens in public areas like at school, work, the shops, a sporting event or a health service. For example, it's illegal for a shopkeeper to refuse to serve someone because of their race, or for a doctor to refuse to treat someone because they are transgender.

It's also illegal vilify (stir up hatred against) someone because of their racial or religious background. This includes racist graffiti and social media posts.

## Your right to be free of sexual harassment

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

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

Public places can include at school, work, the shops, a sporting event or a health service. Sexual harassment is illegal and if a person's behaviour is serious the police can charge them with a crime.



### Where to get help and more 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 1800 806 292 (free call) for the 24-hour Sexual Assault Crisis Line or any centre in Victoria or visit [www.casa.org.au](http://www.casa.org.au)
- **Fair Work Ombudsman** – call 131 394 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au)
- **Victorian Equal Opportunity & Human Rights Commission** – call 1300 891 848 or 1300 289 621 (TTY). visit [www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)
- **Victoria Legal Aid Legal Help** – call 1300 792 387 or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

# SCHOOL, BULLYING AND THE INTERNET

This section covers leaving school, suspension, expulsion and **bullying**.

## **Am I old enough to leave school?**

You have the right to leave school once you turn 17.

If you are under 17 and have done year 10 you can leave school if you spend at least 25 hours a week in education, training, employment or a combination of these things.

The Department of Education and Training (Education Department) have to approve it if you want to finish school before year 10.

## **Suspension**

### **What is suspension?**

Suspension is when the principal doesn't let you go to school or your class for a short time.

A principal should only suspend you when they have tried other ways of sorting out the problem, but these haven't worked.

The principal must think about what happened, your educational needs, your age, your circumstances and if you have a disability.

### **What can I be suspended for?**

These rules are for government (state) schools. Non-government schools have their own rules for suspension and expulsion. Contact your school, Independent Schools Victoria or the Catholic Education Commission of Victoria for more information.

See 'Where to get help and more information' on page 14

You can be suspended if you are at school or a school activity, or going to or from school or a school activity and you:

- create a danger or make someone feel there is a danger to another person's health, safety or wellbeing
- threaten another person's health, safety or wellbeing
- hurt another person's health, safety or wellbeing
- seriously damage property
- steal, attempt to steal or help others steal
- sell, use or bring weapons, drugs, alcohol or cigarettes, or help others do this
- disobey clear and reasonable instructions from school staff to stop being a danger to the health, safety or wellbeing of another person
- repeatedly act in a way that stops another person from learning.

You can also be suspended if you repeatedly vilify (stir up hatred against), defame (say untrue things), degrade (hurt) or humiliate (embarrass) another person based on:

- age
- gender, gender identity or sexual orientation
- disability or physical features
- race
- religious beliefs or activities
- political beliefs or activities
- pregnancy or breastfeeding
- legal sexual activity
- marriage or carer status
- union membership
- if they are a friend or relative of someone who has one of these characteristics.

## What happens if I am suspended?

Before suspension, the principal must give you a chance to have your say. You can bring a 'relevant person' to support you at any meetings. Usually, the relevant person is your parent, guardian or carer, or another adult that you trust. You can be your own relevant person if you are 18 or mature enough. However, the principal can suspend you immediately if they think they have to.

If the principal suspends you, they must give you and your parent or guardian a 'notice of suspension'. This will say why you were suspended and the dates of your suspension.

Your school must give you meaningful work to do while suspended.

## How long can I be suspended for?

The principal can only suspend you for five school days at a time, and 15 school days in a year. The Education Department's regional director can allow longer suspensions.

## What if I think a suspension is unfair?

Talk to your school. You can also talk to your local regional office of the Education Department or Ombudsman Victoria.

If you're unsure what to do, ask your parents, your guardian or someone else you trust for help.

See also 'What is discrimination?' on page 5 and 'What is bullying?' on page 11.

## Expulsion

### What is expulsion?

Expulsion means you can't go to your school anymore. At a state school, you can be expelled for the same reasons you can be suspended for. Expulsions happen if your behaviour is so serious that the principal thinks other people's health and safety is at risk. The principal can only expel you if it's the only option left.



### Can I be expelled straight away?

No but you can be suspended while a principal is thinking about an expulsion. The principal must tell your parent or guardian. They also must tell the Education Department's regional director that they are thinking about expulsion if you:

- don't live with either of your parents or a guardian
- are an Aboriginal or Torres Strait Islander student
- have a disability.

The principal must organise a behaviour support and intervention meeting. They must tell you and your parent or guardian where and when the meeting will be. A principal can't expel you before this meeting.

In this meeting you can:

- hear why the school is thinking about expulsion
- make sure the school is giving you the support you need
- tell the school what happened in your own words and why it happened
- think about how you may have hurt the other person
- talk about what happens next.

Your relevant person and another support person can come to the meeting. A support person can help you and your parents understand what is happening, what your rights are, and help you speak up. The support person can be from the Education Department or a community organisation. The support person cannot be paid to be there.

The principal must tell you and your parent or guardian if you have been expelled within two business days of the meeting. If you are expelled, the principal must give you and your parent or guardian a 'notice of expulsion' and an 'expulsion appeal form'.

### Can I go to another school?

Yes. You have the right to education. If you are under 17, the principal and Education Department must make sure you are enrolled in another school or registered training organisation, or help you register with an employment agency. Talk to the Education Department so you can get the best result.

### What if I disagree with my expulsion?

You can appeal the expulsion if you think:

- the school didn't follow the expulsion process
- you think the expulsion was unfair. You must say why
- the school didn't try all other options before expelling you
- there are other things the school should think about.

You, your parents or your guardian have 10 days to appeal your expulsion. You or your parent must fill in the expulsion appeal form and give it to the principal. The principal must send your form to the Education Department.

The Education Department may hold an 'expulsion review panel'. If the panel is held, you and your relevant person will get to explain why you should not be expelled. You can bring a support person to this meeting and ask for an interpreter if you need one.

Get legal advice. See 'Where to get help and more information' on page 14.

## Bullying

### What is bullying?

**Bullying** is intentional, harmful and repeated unwanted behaviour. Bullying can happen anywhere. Anyone can be a bully, like a teacher, a student, a family member or a friend.

There are different types of bullying:

- **direct physical:** the bully hurts your body like hitting, tripping, pinching, pushing or kicking you. It can also mean the bully steals or damages your things
- **direct verbal:** the bully speaks to or about you in a mean and hurtful way like teasing or calling you names that may be racist or homophobic 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, mimicking you, using rude body language, playing nasty jokes, texting, emailing you unwanted messages or using chat rooms to upset you.

Bullying is never okay. In severe cases it's treated as a crime in Victoria.

If someone is bullying you, you can do things to try to stop it. Schools and employers must try their best to make you feel safe and stop bullying from happening. Most schools and employers should have policies about bullying.

See 'Where to get help and more information' on page 14.

### What is cyberbullying?

Cyberbullying is when a bully uses the internet or a phone to cause distress. Cyberbullying can happen in texts, emails, instant messages and social media posts. Cyberbullying is illegal and is just as serious as other types of bullying.

Cyberbullying can include:

- making threats
- tricking others with a fake identity
- online stalking (repeatedly doing things that make someone else scared)
- spreading personal information or secrets
- bombarding someone with messages.

### What can I do if I'm being bullied?

Talk to an adult you trust about it.

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

Save any messages you receive and block the sender.

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

If the bullying is happening at school, report it to a teacher, the welfare co-ordinator or the principal and see what they can do. If it's happening at work, talk to your manager or to another adult you trust. You may have to name the bully.

Ongoing bullying or harassment may also be stalking. You could get an **intervention order** to protect you.

### Social networking and privacy

#### How can I stay safe online?

Keep your electronic communications as private as you can.

Don't put any personal information online like your full name, address, phone number, your date of birth or your work or school. Use a screen name rather than your full name.

#### How can I keep my social networking private?

Any information and photos that you put online can be easily shared, without you knowing about it.

Limit who sees your profile and your photos and information. You can change the privacy settings.

However, social networking sites change all the time. What was private one day can be made public the next.

See also 'Sexting, child pornography and revenge porn' on page 35.

**The most important rule is:** only email, post or upload things you're prepared to share with the world.



## **Where to get help and more information**

### **Suspension, expulsion and leaving school**

- **Catholic Education Commission of Victoria** – call 03 9267 0228 or visit [www.cecv.catholic.edu.au](http://www.cecv.catholic.edu.au)
- **Department of Education and Training** – call 9637 2000 or visit [www.education.vic.gov.au](http://www.education.vic.gov.au)
- **Independent Schools Victoria** – call 9825 7200 or visit [www.is.vic.edu.au](http://www.is.vic.edu.au)
- **Ombudsman Victoria** – can investigate decisions made by state schools. Call 9613 6222 or 1800 806 314 (country callers) or visit [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)

### **Bullying, cyberbullying and staying safe online:**

- **Centre for Adolescent Health** – for free support and referral. Call 9345 5890 or visit [www.rch.org.au/cah](http://www.rch.org.au/cah)
- **Kids Helpline** – 24-hour telephone and online counselling for children and young people. Call 1800 551 800 (free call) or visit [www.kidshelpline.com.au](http://www.kidshelpline.com.au)
- **Youthlaw** – call 9611 2412, email [legal@youthlaw.asn.au](mailto:legal@youthlaw.asn.au) or visit [www.youthlaw.asn.au](http://www.youthlaw.asn.au)
- For more information on bullying visit [www.brodieslaw.org](http://www.brodieslaw.org) or [www.bullyingnoway.gov.au](http://www.bullyingnoway.gov.au)
- For more information on how to stay safe online visit [www.cybersmart.gov.au](http://www.cybersmart.gov.au) [www.esafety.gov.au](http://www.esafety.gov.au)

# BECOMING INDEPENDENT

Being independent means you'll have to think about finding a job, a place to live and voting. You can also make a Will, travel overseas and drive a car.

## Working

There are laws employers must follow when employing people under 15. The government can fine employers if they don't follow these laws. You can get help if you are:

- working too many hours
- are not getting the pay, breaks or superannuation you should be
- are doing a job you shouldn't be.

## Am I old enough to work?

This depends. If you're under 15, there are fewer jobs you can do and can't work as long. For most jobs, the employer and supervisor of anyone under 15 must have a Child Employment Permit and a Working with Children Check.

## Under 11

You can work in a family business or in the entertainment industry. If you work in a family business, your parents must supervise you. You can only do light work, which is work that won't hurt you in any way. You still have to be able to do your school work.

### From 11 to 12

If you're 11 or 12, you can work in the entertainment industry or a family business. You can also do jobs like delivering newspapers or advertising material, or making deliveries for a pharmacy. You can only do light work. You still have to be able to do your school work.

### From 13 to 14

For most type of jobs you must be 13 or older. You can only do light work. You still have to be able to do your school work.

Light work might be:

- going on errands
- working in or around a house
- golf-caddying
- photocopying
- gardening
- street trading (such as at a fruit stall or mobile food van)
- delivering newspapers, pamphlets or other advertising material
- making deliveries for a registered pharmacist
- working as a sales assistant in a shop.
- entertainment
- farm work

Your boss can't get you to:

- sell door-to-door
- work on a fishing boat that does not operate on inland waters
- work in building and construction before lock-up stage

### How many hours can I work?

If you're under 15 you can't work for more than three hours a day and 12 hours a week during a school term. You can't work on a school day during school hours, unless you have permission from the Education Department not to go to school. During the holidays you can only work six hours a day and 30 hours a week. These hours include rest breaks.



You can only work between 6 am and 9 pm.

You must have a 30-minute break after every three hours of work.  
You must have at least a 12-hour break between shifts.

### Am I old enough to do work experience?

If you're over 14 you can do work experience for up to 10 days a term but no more than 40 days a year. You can't work for more than 10 days in one work experience placement. Speak to your work experience co-ordinator for more information about work experience placements.

### What is an employment contract?

An employment **contract** 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.

Sometimes an employment contract is oral (spoken) and not in writing. You have a right to know the pay rates 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 help and more information' on page 29.

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

'Cash in hand' means that the employer doesn't take tax out of your pay. It can feel like you're earning more money. But this means you don't have any proof of being paid.

This can lead trouble if something goes wrong. The government will need proof if you go to the Fair Work Ombudsman because you were underpaid or if you go to Worksafe about a work injury. If the government finds out that you worked cash in hand, this could lead to problems with:

- **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
- **Department of Immigration** – if your visa says you're can't work, you could be charged with an offence or even have to leave the country.

Because the employer didn't keep a record of your work they may say you didn't work for them. Cash in hand means the employer won't pay your superannuation contributions. You could miss out on quite a lot of money.

### **What is unpaid trial work?**

Unpaid trial work is when an employer gets you to work without pay to see if you're right for the job. Sometimes employers get young people to do unpaid trial work just to get free work over a busy period like a long weekend. Unpaid trial work happens in many jobs but happens a lot in sales and in hospitality.

An employer can only ask you to do some unpaid trial work if:

- they want to make sure you have the right skills
- you only work for as long as needed for you to show that skill
- you are under direct supervision the whole time.

If a job doesn't need any particular skills or your unpaid trial goes too long, then it may be against the law.

## What are my rights at work?

### Discrimination and workplace safety

Discrimination, unsafe work environments, sexual harassment, workplace violence and bullying are against the law. If these issues affect you, there are people who can help. Contact the Australian Council of Trade Unions (ACTU) or JobWatch.

See 'What is discrimination?' on page 5.

There are minimum standards for all Australian workers, no matter what you agree to in your contract. For example, you must be paid at least the minimum wage. Contact 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.

### What if you get fired?

If you think it was unfair, get help quickly. You won't have much time. You have 21 days from your dismissal to ask for an unfair dismissal. See 'Where to get help and more information' on page 29.

## Money, superannuation and tax

### What is superannuation?

The employer pays superannuation on top of your pay. It goes into a superannuation fund. The idea is that this money builds up over your lifetime so there is money for you when you retire. Employers must pay superannuation for all casual, part-time and full-time employees who are over 18 and earn more than \$450 per month. If you're under 18 and you work more than 30 hours per week, your employer must pay superannuation. You can choose your superannuation fund.

### **How much tax will I pay?**

This depends on what you earn. Some of your income each year is tax-free. This is called the 'tax-free threshold.' You can only claim the tax-free threshold once. 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. If you work two or more jobs, you can only get a tax-free threshold for one.

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

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

It depends on how much money you earn and how much tax you pay in one financial year (July to June). Contact the Australian Taxation Office to check.

If you have to do a tax return, you may get some money back.

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

The tax office gives you a tax file number (TFN). It's yours for life.

You need a TFN when you:

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

If you don't have a TFN, your employer must keep almost fifty percent of your pay in tax.

### **How do I get a TFN?**

You can get a form online, then apply at some Australia Post shops. 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 form visit [www.ato.gov.au](http://www.ato.gov.au), click the 'Individuals' tab and follow the link to 'Tax file number'.

### **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. You can give your TFN if you have one.

### **Am I old enough to leave home?**

You can leave home when you turn 17. If you leave home before and someone thinks that you aren't safe, they can report this to the Department of Health and Human Services (DHHS).

If DHHS is worried about your safety, it can ask the Children's Court to make an order to protect you. The order can say where you'll live and who you'll live with like another family member or in a residential home with other young people.

DHHS probably won't take you to court if you:

- have somewhere safe to live
- have enough money to live on
- aren't involved with drugs, under-age sex work or any other illegal activities.

**See** also 'What happens when there is family violence' on page 41, 'What will happen to me if my family breaks down?' on page 39, 'What happens if a child is being abused or neglected?' on page 40.

### **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. If you need emergency housing **see** 'Where to get help and more information' on page 29.

## Renting

If you're under 18, you can rent a house or apartment. Centrelink might also give you a payment called Rent Assistance.

You usually need to sign a lease when you rent a house or apartment. 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 may also have to pay a 'bond'. This is usually a payment of one month's rent. The owner or real estate agent sends the bond to the Residential Tenancies Bond Authority. The authority will send 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 took care of the place and whether they should give you back your bond.

The owner of the property must get 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 must ask the Victorian Civil and Administrative Tribunal (VCAT). Contact the Tenants Union of Victoria if you're in this situation.

## Centrelink, allowances and payments

When you turn 16 and if you're unemployed, you may be able to get Centrelink payments. Register with your local Centrelink office. If you aren't sure if you can get Centrelink payments, it's always best to apply.

If you can get financial help, the type of payment and how much you get depends on your circumstances. Centrelink will look at your circumstances and your income and assets (things that you own, such as a car or property). Centrelink will also look at the income and assets of:

- your parents if you're under 22 years, unless you are independent.
- your partner if you're in a de facto (marriage like) relationship.

If you're under 22, 'independent' means more than living away from home. Centrelink has criteria for being independent, such as being unable to live at home due to extreme family breakdown.

If you register with Centrelink, you can use their job search services even if you can't get a payment. You can also link in with the Jobactive program, which can help you find work, prepare for a job or find an apprenticeship or traineeship.

Below is a summary of different Centrelink payments. Call Centrelink if you need more information.

### Youth Allowance

This is for young people who are studying, training or looking for a job. You may get Youth Allowance if you're:

- 16 to 21 and looking for full-time work or doing approved activities
- 16 to 21 and studying part-time and looking for work
- 18 to 24 and studying full-time
- 16 to 24 and a doing a full-time Australian apprenticeship
- 16 to 17 and independent or needing to live away from home to study.



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 what you can do. Call Centrelink's Youth and students' line on 132 307.

Everyone who gets Youth Allowance payments must follow Centrelink's rules. If you break these rules, Centrelink may not pay you.

Centrelink may ask you to agree to a 'job plan'. The plan will tell you what you have to do to find work. You may have to apply for a set number of jobs each fortnight or do training, paid work experience or voluntary work. If you don't agree to a plan, or miss any requirements in the plan, Centrelink may not pay you.

If you're sick and can't work, study or look for work, Centrelink may still pay you Youth Allowance. You must get a medical certificate.

For more information visit [www.humanservices.gov.au](http://www.humanservices.gov.au), click on the 'Centrelink' tab and follow the links to 'Job seekers' or 'Students and trainees'.

### **Abstudy**

This is for Aboriginal and Torres Strait Islander young people who are studying or doing an apprenticeship. You must be at least 14 years old.

### **Parenting Payment**

If you have a dependent child, you may be able to get this. It doesn't matter how old you are.

### **Special Benefit payment**

If you're having trouble with money, you may be able to get this.

## Disability Support Pension

If you're 16 or over and have a medical condition that is serious and stops you from working or studying, you may be able to get this. You'll need a report from your doctor and you may also need to see a doctor from Centrelink.

## What if things in my life change?

You must tell Centrelink if there are changes such as getting extra income or anything else that might affect your payment.

## 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. This is an independent officer in Centrelink who will make a fresh decision. They will send a letter explaining the decision. If you still think the decision is wrong, you can appeal to the Administrative Appeals Tribunal. This is free but you must appeal within thirteen weeks if you want to get paid the money you missed.

You may want to get legal advice before or during a review or appeal. You can appeal by:

- phoning the tribunal on 1800 228 333 (free call)
- writing to the tribunal at GPO Box 9943 Melbourne VIC 3001
- filling in an appeal form at your local Centrelink office.

## Driving

### Am I old enough to drive a car?

In Victoria, you can get your learner permit (L-plates, or Ls) when you turn 16 and your probationary permit (P-plates or Ps) when you turn 18. If you are under 21, you need to be on your Ls for at least 12 months before you get your Ps.

There are road rules every driver must follow, such as wearing seatbelts, obeying traffic signals, and keeping to the speed limit.

There are extra laws on your Ls and Ps such as:

- you must always have a fully licensed driver with you when you drive on your Ls
- you can't drink any alcohol and drive
- you can't drive if you're affected by drugs (even if your doctor has prescribed them)
- you can't use a mobile phone while driving, even hands free or using it for directions
- you must always carry your permit or licence when you're driving.

The **penalties** are tough if you break the rules.

### **What are graduated licences?**

Graduated licences are two-stage licences for P-plate drivers 18 to under 21.

**P1 licence first stage** you get a red P-plate for 12 months.

**P2 licence second stage** you get a 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 are on your P1 licence, you can't have more than one 'peer passenger' in their car. A 'peer passenger' is someone 16 to under 22. This does not include brothers, sisters or your husband or wife or domestic partner who are in this age range.

Some drivers can't drive certain vehicles or tow trailers. Check with VicRoads before you drive to make sure you are up-to-date on these rules.

### **Am I old enough to drive a motorbike?**

You can apply to VicRoads for a L-permit when you're 18 or older. Before you get a permit, you need to pass an eyesight test, a knowledge test and a practical skills assessment test. 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.

You must wear an approved helmet. For the first year of your licence, you can't ride a motorbike with an engine bigger than 260cc or carry a pillion passenger (someone who sits behind the driver).

### **What if I am caught drink or drug driving?**

There are serious penalties for drink or drug driving at any age. When you are on your Ls and Ps you will lose your licence if you get caught with any drugs or alcohol in your system. When you get your licence back, it will take you longer to get to the next stage in the graduated system. You will also have to go to a behaviour change program and have an alcohol interlock placed in your car if you were caught drink driving. If your reading is 0.10 or more you will have to go to court to ask for your licence back.

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

'Hoon driving' includes things like:

- giving off too much noise or smoke
- being a part of or drag race
- driving carelessly or dangerously (such as deliberate skidding or driving at very high speeds)
- not stopping when police tell or signal you to
- driving drunk or on drugs
- riding a mini motorbike (monkey bike) on a road
- driving while being chased by police
- driving while disqualified or when you don't have a licence
- driving onto a train track when a train is coming
- putting an emergency worker (like police or ambulance workers) in danger by driving
- damaging an emergency vehicle deliberately.

The police can immobilise (put a wheel lock on your car so you can't drive it) or take your car for up to 30 days if they believe it was used for hoon driving. If you are found guilty of a hoon driving offence, the court can immobilise or take your car for up to three months.

If you commit three hoon related offences in under six years, police can ask the court to take your car away permanently, even if you were driving someone else's car.

If police immobilise your car, you'll have to collect the key at a police station. You have 24 hours after you unlock your car to return the key to the station.

If police take your car away, it'll be taken to a secure garage or storage area. You'll have to pay for the cost of storage to get your car back.

If your car is taken away or immobilised, and you think you have very good reasons to drive your car talk to a **lawyer** about your options.

## **Am I old enough to vote?**

You must be 18 years old to vote. You can register to vote when you turn 17. If you're an Australian citizen over 18, you must 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 if your parents or guardian agree. If your parents or guardian can't or won't agree, there are steps you can take.

You can apply online or at your local post office.

## Making a Will

A Will is a document that says who you want your money and belongings to go to if you die. You can make a Will as soon as you're 18. To make sure your will is valid sign it in front of two other people.

If you're under 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 the court approves it.



### Where to get help and more information

#### Jobs and work

- **Australian Council of Trade Unions (ACTU)** – call 1300 486 466 or visit [www.worksite.actu.org.au](http://www.worksite.actu.org.au)
- **Business Victoria** – for child employment permits. Call 1800 287 287 (free call) or visit [www.business.vic.gov.au](http://www.business.vic.gov.au) and follow the 'Hiring and managing staff' link
- **Fair Work Commission** – for unfair dismissals and complaints. Call 1300 799 675
- **Fair Work Ombudsman** – call the Fair Work Infoline on 131 394 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au)
- **JobWatch** – call 9662 1933 or 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** – call 9659 3511 if you're a union member
- **Young Workers Centre** – information on rights at work, and help resolving workplace issues. Call 1800 714 754 or visit [www.youngworkers.org.au](http://www.youngworkers.org.au)
- For tips on finding a job visit [www.myfuture.edu.au](http://www.myfuture.edu.au) or [www.youthcentral.vic.gov.au](http://www.youthcentral.vic.gov.au)

### Tax and banking

- **Australian Taxation Office** – call 132 861 or visit [www.ato.gov.au/Individuals](http://www.ato.gov.au/Individuals)
- **Financial Ombudsman Services** – call on 1800 367 287 (free call) or visit [www.fos.org.au](http://www.fos.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 download the Rent Right smartphone app
- **Department of Housing** – visit [www.housing.vic.gov.au](http://www.housing.vic.gov.au)
- **Estate Agent Resolution Service (EARS)** – for complaints about real estate agents. Call 1300 737 030
- **Kids Helpline** – 24-hour telephone service, including for emergency housing. Call 1800 551 800 (free call) or visit [www.kidshelpline.com.au](http://www.kidshelpline.com.au)
- **Launch Housing** – for emergency housing. Call 1800 825 955 or visit [www.launchhousing.org.au](http://www.launchhousing.org.au)
- **Residential Tenancies Bond Authority** – call 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)
- **Tenants Union of Victoria** – call 9416 2577 or visit [www.tuv.org.au](http://www.tuv.org.au)
- **VCAT** – visit [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) and follow ‘Residential Tenancies’ link

### Centrelink and allowances

- **Department of Human Services** – call 132 307 or visit [www.humanservices.gov.au](http://www.humanservices.gov.au), click on the ‘Centrelink’ tab and follow the links to ‘Job seekers’ or ‘Students and trainees’
- **Social Security Rights Victoria** – call 9481 0355 or 1800 094 164 (country callers), or visit [www.ssrv.org.au](http://www.ssrv.org.au)
- **Victoria Legal Aid Legal Help** – call 1300 792 387 or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.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** – 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)





# 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 but there are laws about when you can have sex.

Having sex is a big step. It's important you feel in control and make decisions that are right for you. If you're thinking about having sex, talk to your doctor or family planning clinic about contraception and sexually transmissible infections (STIs).

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

## Sex and the law

There are laws about sex and sexual touching.

Sex 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. Sexual touching is touching a person in a sexual way, like touching another person's vagina, penis, anus or breasts.

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

The law says that people can't have sex unless they all **consent** (agree). If someone has sex with you or touches you in a sexual way without your consent, this is sexual assault. Sexual assault is a crime.

If you start having sex or sexually touching but change your mind and the other person doesn't stop, it is sexual assault. If you're asleep, unconscious or so affected by alcohol or drugs that you can't agree, it's still sexual assault. If someone threatens to touch you sexually without your consent, this is also a crime.

Sexual assault is never your fault.

If someone has sexually assaulted you call the police on 000. 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, or another one of the services in this booklet. You can also talk to someone you trust.

### Am I old enough to have sex?

There are clear age limits for when you can legally have sex. This is called the age of consent. The age of consent is the same for opposite-sex and same-sex couples.

Police can **charge** a person if they break these age limits, even if the younger person agreed to the sexual act.

**Make sure you know the rules for your age – not knowing the law is no excuse.**

### What are the age limits for having sex?

**Under 12 years old:** If you are under 12, a person can't have sex with you, touch you sexually or perform sexual acts in front of you, even if you agree.

**12 to 15 years old:** If you are 12 to 15, a person can't have sex with you, touch you sexually or perform a sexual in front of you if they are more than two years older than you, even if you agree. This is two years to the exact date. If you are unsure, check your birth dates.

**16 or 17 years old:** You can have sex with most people your age and older than you. A person who is caring for you or supervising you, like a teacher, youth worker or foster carer, can't have sex with you, sexually touch you or perform a sexual act in front of you, even if you agree. However, it is not a crime if they honestly believed you were 18 years or older.

**18 years old and over:** People over the age of 18 can consent to have sex with anyone else over the age of 18. They can also have sex with someone 16 and 17 as long as both people agree. They can't to have sex with someone under the age of 16 unless they honestly and reasonably believed they were 16 or older.

Even if you are both in the age limit, you both still need to agree to having sex. If one person doesn't agree, and the other person has sex with them, this is a serious crime.

### Is my partner old enough to have sex?

The table below is a summary of the age limits for having sex. See the previous section for more information.

<b>Under 12</b>	It is never legal to have sex with someone under 12, even if they agree, or you thought they were older.
<b>12-15</b>	It is only legal to have sex with someone 12-15 if you are not more than 2 years older and they agree. This is two years exactly. Check your birth dates.
<b>16-17</b>	It is legal to have sex with someone aged 16-17 as long as you are not caring for or supervising them and they agree.
<b>Aged 18 and over</b>	It is legal to have sex with someone aged 18 or older if they agree.

### What is incest?

Incest is sex between family members. This includes between brothers and sisters, a child and parent and a child and grandparent. Incest is illegal even if you agree to it and it does not matter how old you are. Incest includes non-blood family members, like step-parents. You also can't have a sexual relationship with a de facto partner of your father or mother while you're under 18.

### Sexting, child pornography and revenge porn

#### The risks of sexting

Sexting is where a sexual image is sent on a mobile phone or other digital device.

There are Victorian and Commonwealth laws that see sexting of young people as being child pornography. The police or the court decide which law applies.

Sexting can be risky, especially if you're under 18. Even if the other person agrees, you could be charged with child pornography

**offences** if you:

- take a sexual image of someone who is or looks under 18
- post a sexual image of someone who is or looks under 18
- send a sexual image of someone who is or looks under 18
- send on a sexual image of someone who is or looks under 18
- receive a sexual image of someone who is or looks under 18.

**Penalties** can include 10 years in jail and registration on the Register of Sex Offenders.

However, in Victoria if you are under 18, you can take, keep and send an intimate image of yourself. You can also take and keep an image of someone else under the age of 18 if:

- no-one in the image is more than 24 months younger or older than you
- the image doesn't show any crimes (such as rape) being committed.

It's illegal to send or post an intimate image of anyone who is or looks under 18, even if they agree to it.

### **Revenge porn/image-based abuse**

Revenge porn or image-based abuse is when a person sends or threatens to send an intimate image of someone else without their consent. An ex-partner might threaten to post a photo you sent to them while you were together. It does not matter how old the other person is, or whether they were in a relationship with you or not.

Image-based abuse is illegal in Victoria.

Being found guilty of image based abuse has serious consequences – up to two years jail.

If you or somebody you know has concerns about sexting, or has had pictures sent without their consent, you can get help. You can complain to the eSafety Commissioner if someone puts an intimate image on a social media site without your consent. This can include private activity or showing you without your religious clothing. The commissioner may order the social media site to remove this image.

Sexting might seem like harmless fun, but once you send images electronically it's hard to control who sees them or shares them.

## Am I old enough to get married?

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

- you want to marry
- your parents or guardian agree
- your boyfriend or girlfriend is at least 18, and
- a court agrees that your situation is special enough to let the two of you to get married.

The court thinks about things like how long you have been together, your maturity, how much money you have and how independent you are from your parents. If the court lets you to marry, you have three months to do so.

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

Nobody can force you to get married if you don't want to. This is a criminal offence. The penalties are higher if the person forced into marriage is under 18.



## Where to get help and more information

- **Centre Against Sexual Assault (CASA)** – call 1800 806 292 (free call) for the 24-hour Sexual Assault Crisis Line or any centre in Victoria or visit [www.casa.org.au](http://www.casa.org.au)
- **Domestic Violence Resource Centre** – call 9346 5200 or visit [www.dvrcv.org.au](http://www.dvrcv.org.au)
- **Family Planning Victoria** – visit [www.fpv.org.au](http://www.fpv.org.au)
- **Gay and Lesbian Switchboard** – counselling, information and referral service. Call 1800 184 527 or use their webchat at [www.switchboard.org.au](http://www.switchboard.org.au)
- **Magistrates' Court of Victoria** – visit [www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au) and go to the 'Family Law' page for information about getting married if you're under 18
- **Transgender Victoria** – for support and advice. Call 9020 4642 or visit [www.transgendervictoria.com](http://www.transgendervictoria.com)
- **Safe Steps Family Violence Response Centre** – support and referrals to safe accommodation. Call 1800 015 188 (free call) 24-hours, 7 days a week, email [safesteps@safesteps.org.au](mailto:safesteps@safesteps.org.au) if you can't safely call, or visit [www.safesteps.org.au](http://www.safesteps.org.au)
- **Victoria Legal Aid Legal Help** – call 1300 792 387 or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)
- For information for young people about relationships and sexuality visit [www.reachout.com](http://www.reachout.com)

You might want a copy of our free booklet: *You and family law: a short guide*. For copies call 9269 0234 and ask for Publications or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

# FAMILY AND IDENTITY

There are many kinds of families and we develop our identities within the family. This section looks at what happens when families breakdown, your rights to information about your identity and information on identity for transgender or gender diverse people.

## **What will happen to me if my family breaks down?**

If your parents have split up, things can be pretty tough and confusing. Your parents might need to work out where you will live, who you will live with and what time you'll spend with each parent and any brothers and sisters. The law says your 'best interests' are the most important thing. It doesn't mean you'll get what you want, although the court will always take this into account. The court will also think about the needs of other family members.

The law says:

- it's in your best interests to have a relationship and spend time with both of your parents, and any siblings as long as you are protected from abuse or neglect
- your parents must look after you financially.

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

The court will want to know if your parents have worked out who will take care of you. The court may ask you to talk to a counsellor or other professional about what you want and how you're feeling.



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

The court might ask an 'independent children's lawyer' to look into your situation. The lawyer will usually talk to you and other people in your life like your teacher or doctor. The **lawyer** tells the court what they think is in your best interests.

### **What happens if a child is being abused or neglected?**

Child abuse or neglect includes things like physical, sexual and emotional abuse. If this has happened, or you are worried it will happen to you or someone you know, make sure you tell someone you trust. You can also call the police on 000 or the Child Protection Crisis Line on 131 278. Some people like doctors, nurses, teachers, principals and police – must tell the Department of Health and Human Services if they think a person under 17 has been abused or is at risk of abuse.

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

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

Sometimes the department might ask you or a family member to live somewhere else or they may put restrictions on you or a family member. If you are uncertain or unhappy with something the department wants, you can call Victoria Legal Aid's Legal Help service for help on 1300 792 387.

Children and young people have the right to always have their wishes listened to.

### **What if I have to go to court?**

If the department takes your case to the Children's Court, children over 10 always have a lawyer.

The Children's Court can decide where you live, who you see and how often you see them. The court can put children on a court order which means all decisions will be made by the department until they are 18 years old.

See 'Where to get help and more information' on page 45.

Many families need help and support, but not all families need the department to be involved.

### **What happens when there is family violence?**

Family violence is behaviour from one family member towards another which includes being violent, abusive and causing fear. The violence can be physical, sexual, emotional, verbal, social and/or financial. This includes children seeing, hearing and being exposed to violent behaviour.

Family violence is against the law.

### **Intervention orders**

If you don't feel safe, you can ask for a family violence intervention order. An intervention order is a court order to protect you from the family member who is using violence. It will list a set of rules called 'conditions', that the person using violence must follow. It may say that the person must not hurt or threaten you or damage your property, or must not emotionally abuse you. The order may also say that the person can't come near you or must leave the house. The police can arrest the person if they disobey the order.

If a family member has been violent to you, you can get help to apply for an intervention order. See 'Where to get help and more information' on page 45.

If you're:

- **under 14** – your parents or guardian or the police can apply for you at the Children's Court
- **14 to 17** – you can only apply in your name if the court allows it. Go to the Children's Court to ask. The court staff will help you with this
- **18 and older** – you can apply in your own name to the Magistrates' Court.

Get free legal advice from Victoria Legal Aid before applying for an intervention order. You can also speak to a lawyer when you go to court. The court staff will also help you to fill out the application.

If someone applies for an intervention order against you and you're under 18, go to court on the date of the hearing. The magistrate decides if an intervention order is made. It will have conditions to keep your family member safe. These are a set of rules about what you can and can't do. If you disobey any of the rules, the police can arrest you.

It's very important to get legal advice if someone applies for an intervention order against you. Call a lawyer or ask to speak with a free lawyer when you go to court.

## **Identity documents**

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

Yes, from the Registry of Births, Deaths and Marriages. This costs money.

### **Can I change my name?**

If you're under 18, you can only change your name if 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 must agree before it can happen.

You can apply at Births, Deaths and Marriages. This costs money.

## Gender and identity

### Gender identity and discrimination

According to the law, gender identity is determined by a person's gender-related identity, such as appearance, mannerisms or gender-related characteristics. It doesn't rely on the sex assigned at birth or if a person has had medical intervention. Anti-discrimination laws protect people who identify as male, female or as neither male or female.

You can't be discriminated against because of your gender identity in public life. This includes at school, work and health services. For example, an employer can't fire you because of your gender identity. A school cannot make a transgender or gender diverse student wear a uniform or use the bathroom of the gender they were assigned at birth. A doctor can't treat you badly because of your gender identity. See 'Your right to be free of discrimination' on page 5.

### Am I old enough to medically transition?

There are different non-medical and medical options that a person can choose to affirm (support) their gender identity. There are no age limits on when you can start to socially transition. For example, wear a different uniform or use a different name or pronoun at school. You can't change your legal gender until you turn 18.

The age a person can start medical transition depends on the treatment:

- **puberty blockers** – if you're under 18, you generally need the consent of both parents or guardian, and a recommendation from a psychiatrist and an endocrinologist
- **hormone replacement therapy** – if you're under 18, you need the consent of both parents or guardian and a recommendation from medical practitioners. If your parents don't agree then the Family Court must decide
- **gender affirmation surgery** – you must be 18 or older.

There are many groups who support transgender community members. See 'Where to get help and more information' on page 45.

### **Can I change my gender on my birth certificate?**

Yes. You must be over 18 to change the gender on your birth certificate. You can change your gender on your birth certificate or get a document that acknowledges a change of gender if you weren't born in Victoria. Currently you can only change your gender on your birth certificate if a doctor confirms that you have had sexual affirmation surgery.



## Where to get help and more information

### Family breakdown

- **Centre for Adolescent Health** – support and referral.  
Call 9345 5890
- **Children's Court of Victoria** – call 8638 3300 or  
visit: [www.childrenscourt.vic.gov.au](http://www.childrenscourt.vic.gov.au)
- **Child Protection Crisis Line** – call 131 278
- **Family Court** – visit [www.familycourt.gov.au](http://www.familycourt.gov.au)
- **Frontyard Youth Services** – call 9611 2411 or 1800 800 531  
or visit [www.frontyard.org.au](http://www.frontyard.org.au)
- **Melbourne Gateway Reconnect** – support for young  
people to reconnect with their families and communities.  
Free mediation and referral. Call 9611 2452 or 9611 2420 or  
email [gatewayreconnect@mcm.org.au](mailto:gatewayreconnect@mcm.org.au)
- **Kids Helpline** – 24-hour telephone and online counselling  
for children and young people. Call on 1800 551 800 (free  
call) or visit [www.kidshelpline.com.au](http://www.kidshelpline.com.au)
- **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)

You might want a copy of our free booklet: *You and family law: a short guide*. For copies call 9269 0234 and ask for Publications or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

## Family violence

- **Domestic Violence Resource Centre** – call 9346 5200 or visit [www.dvrcv.org.au](http://www.dvrcv.org.au)
- **Magistrates' Court of Victoria** – visit [www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au)
- **The Orange Door** – family violence support. Visit [orangedoor.vic.gov.au](http://orangedoor.vic.gov.au)
- **Safe Steps Family Violence Response Centre** – support and referrals to safe accommodation. Call 1800 015 188 (free call) 24-hours, 7 days a week, or email [safesteps@safesteps.org.au](mailto:safesteps@safesteps.org.au) if you can't safely call the phone line or visit [www.safesteps.org.au](http://www.safesteps.org.au)

## Gender and Identity

- **Human Rights Law Centre** – legal action, advocacy and education targeting discrimination against LGBTIQ people. Call 8636 4450 email [admin@hrlc.org.au](mailto:admin@hrlc.org.au) or visit [www.hrlc.org.au](http://www.hrlc.org.au)
- **Justice Connect** – legal help with accessing hormone treatment. Call 1800 782 432 or email [stage2@justiceconnect.org.au](mailto:stage2@justiceconnect.org.au)
- **Minus 18** – Australia's youth driven network for LGBTIQ youth. Visit [www.minus18.org.au](http://www.minus18.org.au)
- **Transgender Victoria** – education, information and service referral. Call 9020 4642 or visit [www.transgendervictoria.com](http://www.transgendervictoria.com)
- **Registry of Births, Deaths and Marriages** – call 1300 369 367 or visit [www.justice.vic.gov.au](http://www.justice.vic.gov.au) and follow the link to 'Births, Deaths and Marriages'
- **Victoria Legal Aid Legal Help** – call 1300 792 387 or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)
- **Youthlaw** – call 9611 2412, email [legal@youthlaw.asn.au](mailto:legal@youthlaw.asn.au) or visit [www.youthlaw.asn.au](http://www.youthlaw.asn.au)

# HEALTH

Being healthy means feeling physically and emotionally well. Looking after yourself, knowing your legal rights and where to go for help are steps in the right direction.

## Going to the doctor

### Can I choose my own doctor?

Yes. In most cases your doctor must keep the things you talk about confidential. Ask your doctor if they have rules about confidentiality. If you don't agree with the rules, choose another doctor.

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

A doctor can't treat you badly or discriminate against you for any personal characteristics, including your gender identity or sexual orientation. See 'Your right to be free of discrimination' on page 5.

### Can I choose my own medical treatment?

These are the general principles:

- **Minor medical treatment** (e.g. colds or acne)

Yes. If you're mature enough to understand what the treatment is about.



- **More-complicated treatment**

(e.g. abortion and contraceptive advice)

*Maybe.* If the doctor thinks you understand the treatment and its consequences and believes that the treatment is in your best interests.

- **Non-therapeutic treatments**

(e.g. sterilisation, gender affirmation surgery)

May need court approval, even if you and your parents or guardian consent.

- **Complex treatment** (e.g. eating disorders and other mental illness, refusing a blood transfusion on religious ground)

You might not have the right to refuse, even if you fully understand the treatment and its consequences. If you refuse medical treatment, the doctor may get you the treatment without your consent. If you, your parents or guardian and your doctor disagree about treatment, a court will decide what will happen. The court must look at what's in your best interests.

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

Medicare is the government health system. When you are 15 you can apply for your own Medicare card. Until then, you need to use your parents' or guardians' 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.

You'll need to think about how you'll pay for your medical treatment. Some doctors 'bulk bill' under 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.

You need to show your Medicare card or your parents' Medicare card when you go to the doctor.

## Contraception and pregnancy

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

You can buy condoms at any age. Most chemists and supermarkets sell them.

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 rules about confidentiality. You can get a second opinion if a doctor doesn't help you with contraception.

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

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 you. Your decisions are private. If you're not happy with your medical or health professional, get a second opinion or complain.

### Am I old enough to keep my baby?

There's no minimum age to keep your baby. What matters is if you can look after yourself and the baby. If you're under 17 and someone's worried about your welfare or your baby's, that person may call the Department of Health and Human Services. See 'What happens if a child is being abused or neglected?' on page 40.

### Am I old enough to have an abortion?

There's no age limit on having an abortion. You may have an abortion without your parent's or guardian's consent. The doctor must think that you're mature enough to understand what you're doing.

If you want to have an abortion, get advice from a doctor or Family Planning Victoria early on. Most abortions are done in the first twelve weeks of a pregnancy. You can have an abortion up to 24 weeks of pregnancy. Abortions after 24 weeks are rare.

It is an **offence** to harass, intimidate or stop a person trying to enter or leave an abortion clinic. Nobody can do this 150 metres around an abortion clinic. This means you should be able to go into an abortion clinic without anybody making it hard for you. If you feel intimidated by members of public outside the clinic, call the clinic and ask what to do.

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

If you have a child, you have to pay money to help with the costs of the child until they're 18. 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.

## **Tattoos and piercings**

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

You can't have anyone tattoo you or scarify, bead, brand or tongue split you before you're 18, unless it's for medical purposes.

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

If you're under 16 your parents or guardian must agree to let someone 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 help and more information

- **Centre for Adolescent Health** – support and referral.  
Call 9345 5890
- **Family Planning Victoria's Action Centre** – free and confidential information about sexuality, pregnancy, sex, contraception, family counselling, sexually transmitted infections. Call 9660 4700 or 1800 013 952 or visit [www.fpv.org.au](http://www.fpv.org.au) for more information
- **Health Services Commissioner** – for complaints about health professionals and services. Call 1300 582 113 or email [hsc@dhhs.vic.gov.au](mailto:hsc@dhhs.vic.gov.au)
- **Medicare** – call 132 011 or visit [www.humanservices.gov.au/customer/dhs/medicare](http://www.humanservices.gov.au/customer/dhs/medicare)
- **Office of the Public Advocate** – call 1300 309 337 or visit [www.publicadvocate.vic.gov.au](http://www.publicadvocate.vic.gov.au) and follow 'Medical Consent' link
- **Youth Central** – visit [www.youthcentral.vic.gov.au](http://www.youthcentral.vic.gov.au) and follow 'Advice for life' link
- For more information about having a baby visit [www.betterhealth.vic.gov.au](http://www.betterhealth.vic.gov.au)



## OUT THERE

What happens 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 know your rights.

### Cigarettes

If you're under 18, no-one can sell you cigarettes or tobacco or buy cigarettes or tobacco for you. It isn't against the law to smoke or carry cigarettes or tobacco.

### Alcohol

If you're under 18, you can't drink, buy or possess alcohol unless you're in a private home and your parent or **guardian** lets you. If you leave the private home, and you take your drink with you, you'll be committing the **offence** of underage drinking in public.

You can only go into licensed premises (like a pub or club) if you're with your parents, guardian or your husband or wife and you're having a meal there or you're staying the night.

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. You could commit a minor offence like using indecent language right up to serious assault. 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, address and proof of age if you buy or have alcohol. They can take alcohol away from you if you're under 18. It's illegal to have alcohol on public transport and in some public places, and at some festivals and music events. It doesn't matter how old you are.

## Parties

It's a good idea to plan your party carefully. Think about how big the party will be and who is invited. Gate-crashers can cause things to get out of hand. The police could hold you or your parents responsible if someone is hurt while they're at your house. The police could also charge you with making a public nuisance if the party gets out of hand. They could **charge** anyone over 18 who gave alcohol to anyone else under 18.

There are times when you can't play loud music/make noise. You can't make noise from musical equipment after 10 pm from Sunday to Thursday and after 11 pm on Friday and Saturday. Let your neighbours know a week or more before you have a party. They may understand if it's louder 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 them knowing.

## Possessing

This means having a drug:

- on you, like in your pockets or bag
- in a house or place where you live
- in a car you own or you're driving.

It's also illegal to sell, display or supply bongs in Victoria.

## Trafficking

This means selling, 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 (make) drugs or prepare them for selling
- possess a 'traffickable quantity' of drugs. This amount is different depending on the drug
- help someone else to do any of the above, like picking up someone else's drugs for them.

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.

## Is medical cannabis legal?

Medical cannabis is legal in Victoria. But it is tightly controlled. Smoking a marijuana joint or bong and saying it's for medical reasons is still illegal.

A doctor or specialist must prescribe medical cannabis. They will only do this if you have a medical condition and your doctor thinks cannabis will help. They may also need to get the government to approve your prescription.

The government must give a permit to a producer before they can grow medical cannabis.

### **Syringes and the law**

It's legal to carry new and used syringes. Never carry illegal 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 may use syringes or traces of drugs as **evidence** of you using a drug.

Always get rid of syringes safely by:

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

There are services that collect used syringes and give you new ones. Contact Direct Line for your nearest program. See 'Where to get help and more information' page 60.

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

Call an ambulance straight away. Phone 000 and say someone needs urgent medical help. 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. Ambulance officers do not routinely call police unless the person is behaving violently.

You can call 000 from a mobile phone even if you have no credit. If there is no mobile coverage, your phone will tell you what number to use.

See also 'Talking to the police' on page 66, and 'Where to get help' on page 83.



## **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 work. Get a letter or statutory declaration from your employer to say this. A statutory declaration is an official statement that is signed in front of an authorised person, such as a police officer, chemist or principal.

### **Can the police search me for spray paint cans?**

Yes. But only if you're:

- 14 or over or if you 'appear' to be 14 or over and
- on or near public transport and the police or protective services officers (PSOs) suspect you have spray paint cans.

Carry ID if you're under 14.

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

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.

PSOs can search you at train stations and some designated areas around train stations. See 'PSOs' on page 78.

### **What happens if 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 a spray can if caught trespassing on private property
- 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 give you a fine or charge you with criminal damage. PSOs on duty at train stations can also fine you for carrying spray cans.

## **Weapons and the law**

There are strict rules for owning and carrying 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. PSOs on duty at train stations can also fine you. See 'PSOs' on page 78.

If you're at school and your principal thinks you're carrying a weapon, they can ask you to turn out your pockets or search your bag or locker and take any weapons they find. Your principal can also give power to another teacher to do this. They can also call the police to search you and your locker.

## **Guns**

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 12 to 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 shooter's 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 kitchen knives, box cutters, flick knives, daggers, butterfly knives or knuckle knives. It's a very serious offence to have a knife within 20 metres of licensed premises and the penalties are doubled. You 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 own some weapons. A lawful excuse could include having the weapon for work, for sport, for a weapons collection, display or exhibition. Self-defence is not a lawful excuse.

If the police 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 from you.

See also 'Talking to the police' on page 66.

## What are 'dangerous articles'?

Dangerous articles can include things like an axe, a cricket bat or a hammer if there is proof you were going to use them as a weapon.

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 to use it as a weapon.

You may be able to have a dangerous article if you have a lawful excuse. These are the same as for other weapons. Self-defence is not a lawful excuse.

## What if my friends break the law?

Being friends with someone who broke the law is not illegal, but it's against the law to help a friend commit a crime. You can be charged even if you weren't at the crime but help in another way. You can get the same punishment as the person who did the crime.

You might be seen as helping by:

- keeping a lookout while a crime is happening
- helping someone conceal who they are, such as swapping clothes before or after the crime
- hiding or carrying stolen property
- hiding weapons or other things connected to a crime
- driving someone who did the crime to or from the crime scene
- accepting a reward for not telling the police information about a serious crime.

## Am I a victim of crime?

If you've been physically or mentally hurt or have lost property or money because of a violent crime, you may be able to get money for compensation or counselling. It doesn't matter how old you are. 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 can't be found, isn't charged or is found 'not guilty'.

If you're a victim of violence, including family violence, you may be able to get compensation from the Victims of Crime Assistance Tribunal (VOCAT). If you're under 18, your parents or guardian must apply. For more information, call the Victims of Crime Helpline.

See 'Where to get help and more information' on page 60.

## Am I old enough to gamble?

The legal age for gambling in Victoria is 18. This includes gambling on websites and apps, 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 help and more information

- **Alcohol and Drug Foundation Information Line** – call 1300 85 85 84 or visit [www.adf.org.au](http://www.adf.org.au)
- **Direct Line** – for anonymous and confidential 24-hour drug and alcohol counselling, information and referral. Call 1800 888 236 (free call) or visit [www.directline.org.au](http://www.directline.org.au)
- **Frontyard Youth Services** – call 9611 2411 or visit [www.frontyard.org.au](http://www.frontyard.org.au)
- **Gambler's Helpline** – free confidential telephone counselling and referral service, 24 hours, 7 days a week. Call 1800 858 858, or visit [www.responsiblegambling.vic.gov.au/getting-help](http://www.responsiblegambling.vic.gov.au/getting-help)
- **Kids Helpline** – 24-hour telephone and online counselling for children and young people. Call 1800 551 800 (free call) or visit [www.kidshelpline.com.au](http://www.kidshelpline.com.au)
- **Victims of Crime Assistance Tribunal** – call 9628 7855 or 1800 882 752 (free call), email [help@vocat.vic.gov.au](mailto:help@vocat.vic.gov.au) or visit [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au)
- **Victims of Crime Helpline** – call 1800 819 817 or visit [www.victimsofcrime.vic.gov.au](http://www.victimsofcrime.vic.gov.au)
- **Victoria Legal Aid Legal Help** – call 1300 792 387 or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)
- **Youthlaw** – call 9611 2412, email [legal@youthlaw.asn.au](mailto:legal@youthlaw.asn.au) or visit [www.youthlaw.asn.au](http://www.youthlaw.asn.au)

- **Youth Support and Advocacy Service** – confidential counselling and referral. Call 1800 458 685 (free call) or visit [www.ysas.org.au](http://www.ysas.org.au)
- For more information on legal topics for young people visit [www.yla.org.au](http://www.yla.org.au)

You might want a copy of our free booklet: *Drugs, the law and safer injecting*. For copies call 9269 0234 and ask for Publications or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)



# BUYING THINGS

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. If you are in debt, talk to someone you trust about getting help.

## Contracts

### What is a contract?

A contract is a legal agreement to do something, like borrow money or buy a car. Most contracts are written but can also be oral. When you buy something, you and the seller have made a contract with each other whether you signed anything or not.

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

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

- you bought things you need to live on like food, housing, clothing or medicine
- you bought things that help you with employment or education
- what was agreed to under the contract has already happened.

### What is a guarantor?

If you're under 18, shops and companies may not lend you money without a guarantor. A guarantor is someone 18 or over who promises they'll pay if you don't.

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

You have to be 18 to sign a mobile phone contract. Parents often sign contracts for their children. This means your parents must pay if you can't. The contract may go into your name once you're 18. You can get a prepaid phone at any age.

There are a few things to remember about phones:

- **There's no such thing as a free phone.** There's always a catch. You may pay for a 'free' handset in the monthly bill or in 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. Once you sign up, it's hard to break the contract.
- **The person who signs the contract** has to for pay the bills.
- **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 you didn't pay the bills, you still have to pay the rest of your contract.
- Most contracts for smart phones have data limits. **It can be very expensive if you go over.**
- **Check if downloads are one-off** or if you have to keep paying for it. Keep the 'unsubscribe' information so you can stop the service.
- **If your phone gets stolen, ring your phone company straight away.** 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 make you pay to unlock SIM cards.



## **Refunds, replacements and repairs**

Shops have to refund, replace or repair what you bought if it is:

- faulty (it doesn't work or is broken)
- not fit for purpose (it didn't do what it was supposed to do)

Keep the receipt as proof of your purchase.

Some shops have a 'no refunds' or 'no refunds on sale items' policy. This is illegal. If the sale item is faulty or not fit for purpose you can still get a refund, replacement or a repair.

However, still choose carefully when you buy something. The store doesn't have to give you a refund or replace goods just because you change your mind.

If you think you should get a refund or replacement but the shop won't give it to you, you can complain to Consumer Affairs Victoria or to the Australian Competition and Consumer Commission.

See 'Where to get help and more information' on page 65.

### **Buying from online stores**

Check the store's refund or return policy before you pay. You usually have to pay return postage costs if you want to exchange or return an item from an online store.

When you buy something, make sure you know exactly what you're paying for. Some sites can help you sort out disputes with sellers. For example, if what you bought doesn't match the description.

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. Your credit card provider might be able to help.

## Private sales

The laws about refunds, replacements and repairs don't apply to sales between private individuals like friends or family, at a market, or through trading sites like eBay. Make sure what you buy works and is fit for purpose.

## Buying 'dodgy' goods

If you buy something privately, check that the person selling the goods has the right to sell them – that they aren't stolen. Ask for proof of ownership. If the goods are stolen, the original owner may claim them back. If you're buying an expensive item, like a car, you can check the Personal Properties Securities Register to make sure the owner has paid it off. See 'Where to get help and more information' below.

### Where to get help and more information

- **Australian Competition and Consumer Commission** – visit [www.accc.gov.au](http://www.accc.gov.au)
- **Consumer Action Law Centre** – call their Legal Advice Line on 9629 6300 or 1800 466 477 or visit [www.consumeraction.org.au](http://www.consumeraction.org.au)
- **Consumer Affairs Victoria** – call 1300 558 181, or visit [www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)
- **Personal Property Securities Register** – visit [www.ppsr.gov.au](http://www.ppsr.gov.au)
- **Telecommunications Industry Ombudsman** – for complaints about bills, contracts, coverage and network faults. Call 1800 062 058 (free call)
- **Victoria Legal Aid Legal Help** – call 1300 792 387 or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)



# POLICE, BOUNCERS AUTHORISED OFFICERS AND PSOS

When dealing with the police, security guards, protective services officers (PSOs) or authorised officers (ticket 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 complain later.

## Talking to the police

### Your rights

Your main rights if you're under 18 are:

- the right to legal advice
- the right to silence (not to answer questions)
- the right to let someone know if you're **arrested**
- the right to have an adult with you during questioning.

If you ask the police, they must give you their name, police station and rank. You can ask them to write this down.

If the police interview, hold, arrest, **charge** or are about to charge you, always get legal advice. See 'Where to get help' on page 83.

### Do I have to give police my name and address?

You must give your name and address if the police believe:

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

The police must tell you why they want your details. If they don't, you can ask why.

The police can ask for your name and address without giving a reason if:

- you're driving a car, motorbike, boat or bicycle
- you're in a hotel or licensed premises
- you're in a 'designated area' or on or near public transport
- they're investigating a report of family violence
- they believe you're mentally impaired and need to take you into custody.

It's a criminal offence to refuse to give your name and address, or to give false details to the police, PSOs or authorised officers at these times.

### The police want to question me. What should I do?

Talk to a lawyer first. 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 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's 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.

### What can I say when the police question me?

You have the right stay silent or say 'no comment' to every question, except to those about your name and address. It can be good to stay silent because the police can use anything you say as evidence to arrest or charge you or use against you in court. You can't get in trouble for saying 'no comment' or staying silent.

It shouldn't affect whether you get bail or work against you in court.

Sometimes police might ask to talk 'off the record'. There's no such thing as 'off the record.' The police can use any information you give them. Tell the police if you want to use your right to silence. If you choose this right, don't answer some questions and not others, except for your name and address.

If you're under 18, the police must not interview you unless a parent, **guardian** or an **independent person** is with you. Police must give you the chance to talk privately to your parents, guardian, independent person and/or lawyer before the interview.

While you're waiting for your parent, guardian or independent person, don't answer any questions after giving your name and address.

The independent person makes sure you understand your rights. They don't give legal advice. You or the police can suggest who will be the independent person.

If an independent person isn't with you during an interview, the court may decide that what you said can't be used as evidence.

The police can question you without a parent, guardian or an independent person when someone else involved in the crime might get away or if waiting may cause danger to other people. You still don't have to answer the police's questions.

Police must record the interview and give you a copy when you leave the police station.

## Police searches

### Can police search my phone?

Police can seize a phone if they think it's stolen or has been used in a crime. If you have a password, you don't have to give this to police. Police need to get a court order to search your phone.

### When can the police search me?

Police can search you if:

- they reasonably believe you've committed or are about to commit an offence, including carrying drugs, weapons, stolen goods or graffiti tools
- you're in custody or under arrest if they believe you're carrying a weapon
- you're under 18 and they suspect you're going to chrome (breathe fumes from a spray can). It's not illegal to chrome but the police can stop you and take you somewhere safe if they think you'll hurt yourself by chroming
- you're in a designated area.

Only a police officer of the same gender as you can search you, unless it's an urgent situation and there's no-one of the same gender 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 search 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 or in a hospital.

### In 'designated' search areas

The police can search you in 'designated' areas. This is a place where:

- two or more violent incidents with weapons happened in the last 12 months
- an event is going to happen and there were violent incidents with weapons when the event was on before (even if the event was somewhere else)
- the police think that an incident with weapons is about to happen.

Generally, the police must publicise that they're going to do a search. They don't have to if they're searching areas where they believe a weapons-related offence will happen and a search will stop it. The areas usually stay designated areas for up to 12 hours.

If you refuse to be searched, the police can charge you.

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 write this down.

For more information about 'Weapons and the law', [see](#) page 57.

PSOs can also search you at train stations and some designated areas around train stations. [See](#) 'PSOs' on page 78.

## Different types of searches

There are three searches the police can do:

- **pat-down search:** 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 police remove and search all of your clothing. The police must do these searches in private, usually at a police station. A parent, guardian or independent person can be with you during the search. The police officer should be of the same gender.
- **internal body search:** this can only be done by doctor that is the same gender as you. You can say no to an internal body search. The police have to ask the court to do this.

**In all cases:** talk to a lawyer as soon as you can if you're not happy with being searched or how the search was done. See 'Where to get help' on page 83.

## Can police ask me to move on from a public area?

Police can ask you to move on from a public area if they believe you're:

- disrupting the peace
- obstructing a business, traffic, or other people
- behaving in a way that might be dangerous to public safety, cause injury, or damage property.

Police can order you to stay away from the public place for up to 24 hours. If you refuse to move on or stay away, police can fine you.



## Going to the police station

### When do I have to go to the police station?

You must go if the police arrest you. You also must go in special circumstances. For example you were driving and the police want to do a breathalyser or drug test. Generally, if police want you to go with them to a police station, you can refuse. Always ask why the police want you to go with them. However, 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'.

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

There are different rules depending on your age:

- **under 10** – the police can't fingerprint you
- **10 to 14** – the police can only fingerprint you if your parent or guardian agree. If you, your parents or guardian don't agree, the police must get permission from the Children's Court
- **15 to 17** – the police can fingerprint you even if you or your parents or guardian refuse. Your parents, guardian or an independent person must be with you when the police take your fingerprints
- **18 years and older** – the police can take your fingerprints even if you refuse. They can only fingerprint you at a police station.

The police must destroy your fingerprints within six months if the police don't charge you or the court finds you 'not guilty'. Check with the police to make sure that this has been done.

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

The police can use 'reasonable force' to take them. Reasonable force means the police may physically restrain you. However, it can't be excessive. If you're 16 or younger, the police must audiotape or videotape this.

## What is a 'forensic procedure'?

A forensic procedure involves someone taking intimate body samples like blood, pubic hair, anal, genital or breast swabs, saliva, or mouth or dental impressions. It also includes taking non-intimate body samples like hair, fingernail or toenail scrapings or some external body swabs.

Only a qualified doctor or dentist can take intimate samples. You don't have to answer any questions the doctor or dentist asks you.

The police can take non-intimate body samples from you. 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 permission from the court. 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 an intimate sample.

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

## Can the police take my photo?

You can refuse to have your photo taken. If police take your photo after you've said no, get legal advice. See 'Where to get help' on page 83.

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

An ID parade is where the police ask a witness to look at a line of people to see if they can identify who committed an offence. A witness is a person who saw or heard something about a crime, like someone who was injured by the offence.

You can refuse to be in an ID parade.

Always talk to a lawyer before agreeing to be in an ID parade. You may be mistakenly identified as the person who committed the offence.

## **Complaints**

### **Can I complain about the police?**

Yes. If the police have done something you think is wrong, you can complain to the senior sergeant of the station. You can also complain to the Police Conduct Unit of the Professional Standards Command of Victoria Police.

You can also complain to Independent broad-based anti-corruption commission (IBAC) if a police officer acted dishonestly, abused their power or broke the law. See 'where to get help and more information' on page 79.

If you're hurt, go to a doctor straight away. Tell the doctor that the police hurt you and show them where you were hurt. Ask the doctor to keep a record of any injuries. Take photos of any visible injuries.

If you want to complain, write down what you remember happening and get legal advice.

### **Can I complain about my lawyer?**

Yes. You can complain to the Legal Services Board. See 'where to get help and more information' on page 79.

## Bouncers and security guards

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

Security guards are employed to make sure everyone can use a space safely. In public spaces, like parks, security guards have the same powers as every other citizen. In privately owned places, like nightclubs, security guards can do more depending on what the owners ask them to do. Some places are both private and public, like shopping centres.

You can question what a security guards can do if you believe they're 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 can a security guard do?

If a security guard sees you doing something you can't do, like smoking or riding a bike in a shopping centre, they can ask you to leave. If you refuse, they can remove you 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 may ask to search your bag. You can refuse. If you agree, you can change your mind at any time during the search. However, searching your bag may be a condition of entry to some places.

### What can't a security guard do?

A security guard can't ask to search your body or clothing.

A security guard also 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, lesbian, transgender or gender diverse.

### **How to complain about security staff**

You can complain to the Licensing and Regulation Division of Victoria Police about security guards, crowd controllers and security companies. See 'Where to get help and more information' on page 79.

### **Tickets and authorised officers on public transport**

The law says you must have a valid myki card or ticket to travel on public transport.

You can travel without a valid myki card if:

- you took all 'reasonable steps' to buy a ticket or myki card or top up your myki card before and after your journey
- you had 'no reasonable opportunity' to buy a ticket or myki card or to top up your myki card while making your journey.

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

It may be reasonable to travel without a valid myki card if:

- the myki machines weren't working at the start or end of your journey
- the validators weren't working
- your myki card had money on it, but was faulty and wouldn't validate.

An authorised officer (ticket inspector) can take your ticket or myki card if you don't validate the ticket for your trip. The officer should offer you a 'travel permit' so you can finish your trip. You can ask for your ticket or myki card returned if it still has value on it.

### **What can an authorised officer fine me for?**

Authorised officers can fine you if they believe you committed a public transport offence. This might be:

- travelling without a valid ticket
- giving a false name
- putting your feet on the seats
- refusing to stand for someone in need
- doing graffiti, or carrying spray cans
- littering, smoking or behaving offensively
- interfering with doors
- parking in travel carparks but not travelling
- travelling in a place not meant for passengers.

### **What happens if I get a fine?**

If you don't think you should pay the fine because you didn't break the law, you can have the Children's Court hear your case. Always get legal advice before paying the fine or going to court. The court can reduce the amount of the fine, set up an instalment plan (you pay the fine bit by bit) or place you on a good behaviour bond.

See 'Where to get help and more information' on page 79.

### **Can authorised officers ask for my name and address?**

Authorised officers can only ask for your name and address if they believe on 'reasonable grounds' that you committed or are about to commit a public transport offence.

The authorised officer must tell you why they want your name and address. If you refuse to give your name and address, or give false information, you may be charged and arrested.

The authorised officer must show you their identity card if you ask to see it. You can ask them for their name and where they work. You can ask them to write this down. An authorised officer can be fined for not giving you this information.

### **Do authorised officers have the power to detain and arrest me?**

Authorised officers can detain you until police arrive if you don't give proof of your name and address. Officers can use 'reasonable force' to detain you. What is reasonable depends on the circumstances. Officers must hand you over to the police as soon as they can.

### **PSOs**

In Victoria PSOs work in and around train stations including carparks, tunnels, footpaths and bike paths leading to train stations. PSOs have similar arrest powers and the same weapons as police officers.

PSOs can ask for your name and address at train stations and in areas around train stations. You must give them your name and address if:

- they think you have committed a crime or are about to commit a crime
- they reasonably believe you're under 18 and have drunk, are drinking or about to drink alcohol.

PSOs can also ask for your name and address if you've witnessed a crime.

PSOs can also:

- arrest you if they think you broke the law, are drunk and disorderly or breached parole
- take alcohol from you if you're under 18
- fine you if you're over 18 and gave alcohol to a young person

- search you and your car for graffiti implements (spray cans or markers) if they believe that you're over 14, and you're carrying these implements
- search you for drugs or weapons if they reasonably suspect you have these
- take you to a safe place if you're under 18 and they believe you're been chroming (inhaling fumes from spray can) and might harm yourself
- tell you to move on if you're disturbing, annoying or making other people unsafe
- stop a person who appears to be mentally ill and is believed to have recently tried to seriously hurt themselves or someone else (or is likely to do so).



### Where to get help and more information

- **Public Transport Ombudsman Victoria** – call 1800 466 865 or visit [www.ptovic.com.au](http://www.ptovic.com.au)
- **Public Transport Users Association** – visit [www.ptua.org.au](http://www.ptua.org.au)
- **Victoria Legal Aid Legal Help** – call 1300 792 387 or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)
- **Youthlaw** – call 9611 2412, email [legal@youthlaw.asn.au](mailto:legal@youthlaw.asn.au) or visit [www.youthlaw.asn.au](http://www.youthlaw.asn.au)
- **Youth Referral and Independent Person Program (YRIPP)** – support for people under 18 being held in police custody. Call 9340 3777 or visit [www.cmy.net.au/yripp](http://www.cmy.net.au/yripp)

You might want a copy of our free booklet *Police powers: your rights in Victoria*. For copies call 9269 0234 and ask for Publications or visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)



## Making complaints:

### About lawyers:

**Legal Services Board** – call 1300 796 344.

### About the police:

- For general complaints, visit [www.police.vic.gov.au](http://www.police.vic.gov.au) and click the 'Compliments and complaints' section
- For complaints about police corruption and serious misconduct contact Independent broad-based anti-corruption commission (IBAC). Call 1300 735 135 or visit [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

### About security guards:

- **The Australian Security Industry Association Limited** – for complaints about security guards breaching their company's code of conduct. Call (02) 8425 4300 to check if the company is a member.
- **Licensing and Regulation Division, Victoria Police** – for complaints about security guards, crowd controllers and security companies. Call 1300 651 645 or email [feedback.lrd@police.vic.gov.au](mailto:feedback.lrd@police.vic.gov.au). Then make the complaint in writing to: Regulation Support Unit, Licensing and Regulation Division GPO Box 2807 Melbourne 3001.

# COURTS AND TRIBUNALS

Courts and tribunals are places where legal decisions are made. A court may be asked to decide where you will live or if you committed a crime.

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

### **By the police**

You can be taken to the Children's Court if the police say you committed a crime before you turned 18 and you are **charged** before you turn 19.

If you're older, you'll go to the Magistrates' Court of Victoria.

The police can't charge you if you're under 10.

If the police charge you with a crime get legal help as soon as you can. Talk to a **lawyer**. See 'Where to get help' on page 83.

### **For unpaid fines**

The Children and Young Persons Infringement Notice System (CAYPINS) in the Children's Court deals with unpaid fines. This can include fines for not having a valid myki 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.

A person under 18 can only sue another person if an adult does it for them.

### **By the Department of Health and Human Services**

If the Department of Health and Human Services thinks you aren't safe, you may be taken to the Children's Court. This is not a criminal case. You aren't in trouble.

See also 'Am I old enough to leave home?' on page 21 and 'What happens if a child is being abused or neglected?' on page 40.

### **Legal advice at court**

All children 10 and over are given their own lawyer. The lawyer acts for you only.



#### **Where to get help and more information**

- **Children's Court of Victoria** – call 8638 3300 or visit: [www.childrenscourt.vic.gov.au](http://www.childrenscourt.vic.gov.au)
- **Magistrates' Court of Victoria** – visit [www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au)
- For legal help, see 'Where to get help' on page 83

# WHERE TO GET HELP

## Victoria Legal Aid

### Legal Help

For free information about the law and how we can help you,  
call Legal Help on 1300 792 387

Monday to Friday, 8 am to 6 pm

### More information

More information is on our website at [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

### Do you need help calling us?



Translating and Interpreting Service

Tel: 131 450



National Relay Service

TTY users: Call 133 677

Speak and Listen users: Call 1300 555 727

Internet relay users: See [www.relayservice.gov.au](http://www.relayservice.gov.au)

### Local offices

We have offices all over Victoria. Our offices are open  
Monday to Friday, 8.45 am to 5.15 pm.

See the back cover for office locations.

All offices are accessible to people with a disability.

## **Other legal services**

### **Federation of Community Legal Centres**

Call to find out your nearest community legal centre.

Tel: 9652 1500

Web: [www.communitylaw.org.au](http://www.communitylaw.org.au)

### **Victorian Aboriginal Legal service (24 hours)**

For Aboriginal and Torres Strait Islander people.

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

### **Youthlaw**

Tel: 9611 2412

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

Web: [www.youthlaw.asn.au](http://www.youthlaw.asn.au)

Useful websites with legal information for young people:

- [www.yla.org.au](http://www.yla.org.au)
- [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)
- [www.youthcentral.vic.gov.au](http://www.youthcentral.vic.gov.au) – click the ‘Advice for life’ tab and then ‘Know Your Rights’

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’.

## Useful Victoria Legal Aid resources

We have free booklets about the law in English and other languages. Visit [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) to order or download booklets. Call (03) 9269 0234 and ask for Publications to find out more.

### Our public law library

Open Monday to Friday, 9 am to 5 pm  
570 Bourke Street, Melbourne



### Street law (education kit)

A free legal education kit to help young people understand their rights when dealing with police and protective services officers (PSOs) in Victoria.

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Watch me on **YouTube**

Watch our community legal education videos.

# Am I old enough?

Common legal issues for young people

## Victoria Legal Aid

For help with legal problems, call Legal Help on **1300 792 387**

For business queries, call **(03) 9269 0234**

## Offices

Melbourne

### Suburban offices

Broadmeadows

Dandenong

Frankston

Ringwood

Sunshine

### Regional offices

Bairnsdale

Ballarat

Bendigo

Geelong

Horsham

Mildura

Morwell

Shepparton

Warrnambool



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