

IMAGE-BASED ABUSE & REVENGE PORN FACTSHEET

WHAT IS IMAGE-BASED ABUSE?

Image-based abuse means taking, sharing, or threatening to take or share, a nude or sexual photo or video of a person without their consent.

One form of image-based abuse is “revenge porn”, when one person shares an intimate image of another person for ‘revenge’ in order to threaten, intimidate harass or humiliate. AI generated ‘deepfake’ porn, which involves using a persons likeness to generate images or videos of a person doing things they did not actually do or say, is an increasingly common form of image based abuse.

Some people share images for fun, to embarrass, to hurt, or to control. Image-based abuse can take many forms and is perpetuated for a variety of reasons. The non-consensual sharing of intimate images is a crime.

Research has found that young people, people with disabilities, Aboriginal and Torres Strait Islander people, and LGBTIQ+ people experience higher levels of image-based abuse.

If you are the victim of image-based abuse, it is NOT your fault, and you can get support.

WHAT IS THE LAW ON IMAGE-BASED ABUSE?

In NSW, image-based abuse is a criminal offence. It is an offence under the *Crimes Act 1900* (NSW) to:

- Watching someone in a private situation to get sexual pleasure or excitement;
- Filming someone when they are doing something private, like undressing, using the toilet, showering, or having sex;
- Filming a person’s private body parts, such as their genitals, anus, or breasts, whether they are covered or not;
- Setting up a device to secretly watch or record someone;
- Recording a private image of someone without their permission;
- Sharing a private image of someone without their permission; or
- Threatening to record or share a private image of someone.

It is not an offence if you share images for genuine medical or scientific purposes, law enforcement, or legal proceedings. There is also an exception if “a reasonable person would consider the conduct of the accused person acceptable” in the circumstances.

There are also offences in the Criminal Code Act 1995 (Cth): 474.17 - to use the internet or phone to menace, harass or cause offence and section, 474.17A - to use the internet or a phone to distribute sexual material of another person without their consent.

It is an aggravated offence under section 474.17AA(5) of the Criminal Code Act 1995 (Cth) if a person distributed intimate material that they was either altered or created. This aggravated offence is intended to address the creation and alteration of sexual material, which includes 'deepfake' sexual material as well as sexual material that is edited.

WHAT IS AN INTIMATE IMAGE?

An *intimate* image means an image of a person's genital or anal area, breasts (this includes a transgender or intersex person that identifies as female, regardless of whether breasts are developed), or underwear.

It can also mean an image of a person performing a private activity, for example:

- in a state of undress;
- using the toilet, showering, or bathing;
- engaged in a sexual act.

WHAT IF I AM UNDER 18?

If someone has posted an intimate image of you online, and you were under 18 when the photo was taken, then additional laws on child abuse material and child pornography will apply.

[Youth Law Australia](#) has a fact sheet on this topic [here](#), and provides free legal advice to young people who are under the age of 25.

The [Shopfront Youth Legal Centre](#) provides advice to disadvantaged young people aged 25 and under.

You should report this to the eSafety Commissioner immediately and consider contacting people, see the below for more information.

WHAT DO I DO IF MY IMAGE HAS BEEN POSTED ONLINE?

If someone has posted an intimate image of you online without your consent, there are services that can support you and help you get the images removed.

Your options include:

1. Ask the poster to remove and delete the image and collect evidence

If you know who posted the image, you can ask them to take it down, stop sharing it, and delete the file. A lawyer or support person may be able to write to the person who posted it for you.

You can also tell them that it is against the law to share the image without your permission.

In order to report the image based abuse to police or the eSafety Commission, you will need to collect evidence of what happened and where it took place. This includes the webpage URL and the user's profile. You can take screenshots but not if it's illegal content such as image-based abuse depicting people aged under 18.

Find out more about [how to collect evidence here](#).

2. Write a letter of demand to the owner of the website

If the images are hosted on a website, you can write a letter to the website owner and tell them that you:

- are the person depicted in the image;
- do not consent to the publication of the image online;
- request that they remove the image;
- will consider legal action if they do not remove the image; and
- it is an offence to publish the image online without your consent.

There are online tools which may be able to assist in finding out who owns a website. 'Whois' is a website owner look up tool which can sometimes list the name of the website owner or the domain provider: <https://www.whois.com/whois/>.

3. Report the images on social media

If the images are posted on social media, you can report the content to the platform.

Instructions of how to report images on the major platforms are here:

[The eSafety Guide](#)

4. Report to the police

The police have powers to investigate image-based abuse and charge people with image-based abuse offences.

If a person is harassing you or stalking you online, the police can apply for an apprehended violence order (restraining order) for your protection.

5. Lodge a complaint with the eSafety Commissioner

The [eSafety Commissioner](#) can help you get images removed as quickly as possible. You can lodge a complaint with the eSafety Commissioner using the form here:

[eSafety Reporting Forms](#)

The eSafety Commission has powers under the **Online Safety Act 2021 (Cth)** including:

- to investigate complaints;
- to send an enforceable removal notice to the service where the image is hosted;
- to issue a formal warning;
- to give an infringement notice;
- seek an injunction or civil order from the Court.

The eSafety Commissioner also has arrangements to work together with the major social media platforms to get images removed and to stop them reappearing.

6. Seek legal assistance

A lawyer can provide advice on how the law applies to your situation and explain your options to you. A lawyer may also be able to help you write a letter of demand or draft a complaint.

[Community Legal Centres](#) and [Legal Aid](#) provide free legal advice.

FURTHER RESOURCES

[Lifeline](#) provides 24-hour crisis support.

P: 13 11 14

[1800 Respect](#) provides free counselling and referral for victims of image-based abuse.

P: 1800 737 732

[Headspace](#) provides free online and phone counselling for people aged 12-25.

P: (03) 9027 0100

[Technology Safety Australia](#) has a detailed fact sheet on image-based abuse [here](#).

The [Inner City Legal Centre](#) provides [free legal assistance](#) and can be contacted on (02) 9332 1966.