

# OUR WATCH

## Submission in Response to the Inquiry into current and proposed sexual consent laws in Australia

March 2023

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## Summary of advice and recommendations

With regard to item f) in the Terms of Reference: *the impact of consent laws on consent education*, Our Watch advises that:

1. The evidence in this area shows that primary focus of consent education must be on building students' understanding of the fundamental principles of bodily autonomy, mutual respect, and enthusiasm and willingness, rather than on simply explaining a legal framework which assesses consent on the basis of a set of physical actions or verbal responses
2. Legal definitions of consent should be part of respectful relationships education in schools, however this should not be the primary focus.

Our Watch therefore recommends that Governments and Departments of Education in each jurisdiction:

3. Ensure that schools are appropriately resourced and supported to take a comprehensive, whole-of-school approach to, respectful relationships education, which includes scaffolded, age-appropriate consent education across the lifespan of all students' education.
4. Commit to supporting the teaching of consent via a whole school approach to respectful relationships as an ongoing process that occurs throughout a student's education. Age-appropriate teaching and learning should commence as early as possible and should enable students to incrementally build on knowledge as they progress through year levels.
5. Ensure that consent education occurs as part of a broader program of teaching and learning about gender equality, sexuality, and respectful relationships, rather than being taught as a stand-alone topic or subject.

## **About Our Watch**

### **A national leader in prevention**

Our Watch is a national leader in the primary prevention of violence against women and their children in Australia. We are an independent, not for profit organisation established by the Commonwealth and Victorian Governments in 2013. All Australian governments are members of Our Watch.

Our vision is an Australia where women and their children live free from all forms of violence. We aim to drive nation-wide change in the culture, behaviours, attitudes, and social structures that drive violence against women and their children.

Guided by our ground-breaking national framework, *Change the story*, we work at all levels of our society to address the deeply entrenched, underlying drivers of violence against women, especially those stemming from gender inequality. We work with governments practitioners and the community, at all levels of Australian society, to address these drivers of violence in all settings where people live, learn, work, and socialise.

### **Respectful Relationships Education**

Respectful relationships education is the holistic approach to school-based, primary prevention of gender-based violence, which includes teaching and learning about healthy relationships, gender, power and control in relationships and consent education.

Respectful relationship education uses the education system as a catalyst for generational and cultural change by engaging schools, as both education institutions and workplaces, to comprehensively address the drivers of gender-based violence and create a future free from such violence.

One of our key areas of focus since our establishment in 2013 is our work developing the evidence base for respectful relationships education. Our Watch has an extensive history in respectful relationships education and has led pilots in secondary and primary schools, worked alongside policy makers, educators, students, school leadership and experts in designing, implementing, and evaluating respectful relationships education across Australian jurisdictions. Our Watch has also supported information sharing and coordination of practice and best-practice policy nationally, including by convening the National Respectful Relationships Education Expert Group (2017–2020). We have also provided ongoing advice on what is needed to design and deliver best practice respectful relationships education to departments of education and other stakeholders across the country.

### **About this submission**

Our Watch welcomes the opportunity to provide this submission to the Senate Legal and Constitutional Affairs Committee as part of its current Inquiry into current and proposed sexual consent laws in Australia.

As an organisation with extensive experience and expertise in the primary prevention of gender-based violence within the education system, Our Watch offers this submission on the impact of consent laws on consent education within Australian schools. Our Watch's feedback seeks to highlight the existing evidence on consent education, including limitations and opportunities, as well as the role of consent law within consent education.

Our Watch's submission focusses on point f) the impact of consent laws on consent education of the Terms of Reference for this Inquiry as the key area of relevance to our expertise.

Our Watch welcomes the opportunity to provide further advice or assistance to the Committee in relation to the issues outlined in this submission. Please contact Director Government Relations, Policy and Evidence, Amanda Alford at [amanda.alford@ourwatch.org.au](mailto:amanda.alford@ourwatch.org.au).

## **The impact of consent laws on consent education**

The evidence suggests that the primary focus of consent education should be on understanding the fundamental principles of bodily autonomy, mutual respect, and enthusiasm and willingness, rather than taking a solely legal approach.

Current approaches to consent education in Australia often focuses on legality – at what age and under what circumstances sexual activity is legal or illegal. Whilst educating students on the law has its place, knowing the legal definition of a term is not enough on its own change behaviours. The prevalence of underage drinking and smoking, despite laws that seek to prohibit these behaviours is a similar example of the gap between people's understanding of the law, and their behaviour. For this reason, in Our Watch's view consent education should not rely or focus solely on teaching the legal definition of consent. Instead, evidence indicates that there is a need for a focus on communication, pleasure, diversity of experiences and healthy, respectful relationships between young people.<sup>1</sup>

Navigating consent is a lifelong process and applies to many areas of people's lives and relationships, including but not limited to sexual relationships. As a result, teaching about respectful relationships and consent needs to be an ongoing process.

A recent report from the South Australian Commissioner for Children and Young People on a survey and consultations with young people found that many are dissatisfied with their current sex education, and want to be taught comprehensive sexuality education that includes "an understanding of the social and practical complexity of consent, rather than just a knowledge of legal definitions" as well as a greater focus on gender, power, respectful relationships and gender inequality.<sup>2</sup> The 2021 National Secondary School Student Survey

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<sup>1</sup> See, for example: Haberland, N. (2015). The case for addressing gender and power in sexuality and HIV education: a comprehensive review of evaluation studies. *International Perspectives Sexual and Reproductive Health*, 41(1), 31-42; United Nations Educational, Scientific and Cultural Organization (UNESCO) (2018), *International Technical Guidance on Sexuality Education*, retrieved online 07/05/2021 [https://www.unaids.org/sites/default/files/media\\_asset/ITGSE\\_en.pdf](https://www.unaids.org/sites/default/files/media_asset/ITGSE_en.pdf).

<sup>2</sup> Connolly, H. Commissioner for Children and Young People, South Australia (2021) *Sexual Health and Education in South Australia: What young people need to know for sexual health and safety*, <https://www.ccyp.com.au/wp-content/uploads/2021/06/Screen-Sex-Education-in-South-Australia-Report.pdf>

on Sexual Health identified that students would like Respect and Sexuality Education (RSE) to be more affirming, more frequent, and delivered by teachers who are comfortable with the topic areas. They also reported wanting RSE to attend more directly to issues of sexual communication, pleasure and relationships.<sup>3</sup> These findings are consistent with other Australian research that has shown young people feel RSE is not adequately inclusive of gender and sexual diversity<sup>4</sup> and does not focus enough on relationships, navigating sexual intimacy or the social and cultural dynamics of sex and relationships.<sup>5</sup> When asked to define what constitutes consent, respondents stated variously that ‘consent involves verbal communication, physical indicators of consent, sharing of sexual images and messages, or a combination of these factors’.<sup>6</sup> The same survey found that 39.5% of students surveyed from years 9-12 have had unwanted sex, with 60% of those experiences occurring within an intimate relationship.

The evidence indicates that the current approach to consent education within schools is inconsistent and could be strengthened to support young people’s understanding of consent. In particular, there is an opportunity to ensure that consent education reflects the reality of students’ lives, focuses on the importance of respectful, honest and open communication, mutual enthusiasm and pleasure, and is relevant to real world experiences. Consent education can also address the social context for questions of consent, such as the perpetuation of harmful and limiting gender stereotypes, the normalisation of coercion and the influences of pornography on students’ understanding of consent and the ways in which they approach it in their intimate relationships. Strengthening consent education in these ways is likely to contribute to supporting young people to understand and engage in healthy, respectful and consensual intimate relationships.

## **Consent education as a component of respectful relationships education**

Schools are a key setting for the prevention of gender-based violence. Respectful relationships education in school settings is one of the most promising strategies to prevent gender-based violence. It provides an opportunity to reach young children early in their development and shape their attitudes, beliefs and behaviour around gender equality and respect. By continuing this education in later years, it provides crucial support and skills to adolescents who are experiencing their first intimate relationships. Respectful relationships education also supports the creation of safe learning environments for all children and young people, through the transformation of school cultures to create environments that promote gender equality, respect, and non-violence.

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<sup>3</sup> Fisher, C., Waling, A., Kerr, L., Bellamy, R., Ezer, P., Mikołajczak, M., Brown, G., Carman, M., & Lucke, J. (2019). 6th National Survey of Australian Secondary Students and Sexual Health 2018 (ARCSHS Monograph Series No. 113). Australian Research Centre in Sex, Health and Society, La Trobe University

<sup>4</sup> Shannon, B. (2022). Sex(uality) education for trans and gender diverse youth in Australia. Palgrave Macmillan Cham. <https://doi.org/10.1007/978-3-030-92446-1>

<sup>5</sup> Cook, M. A., & Wynn, L. L. (2021). ‘Safe sex’: Evaluation of sex education and sexual risk by young adults in Sydney. *Culture, Health & Sexuality*, 23(12), 1733-1747

<sup>6</sup> Fisher, C., Waling, A., Kerr, L., Bellamy, R., Ezer, P., Mikołajczak, M., Brown, G., Carman, M., & Lucke, J. (2019). 6th National Survey of Australian Secondary Students and Sexual Health 2018 (ARCSHS Monograph Series No. 113). Australian Research Centre in Sex, Health and Society, La Trobe University

Respectful relationships education is often considered to be only what is delivered in the classroom. However, creating a respectful and inclusive school goes beyond this. It requires a whole-of-school approach which includes ensuring the policies, school culture and teaching practices support students and staff and promote positive messages about respect and equality. A whole of school approach ensures a culture among both staff and students where gender stereotypes are challenged, gender-based discrimination is unacceptable, and gender equality is actively promoted, modelled and embedded across the entire school, not only in the curriculum. This is also true of consent education within schools. The messages that young people receive from adults around them influence their attitudes and behaviours. This is why it is important for school staff to consistently role-model consent and positive behaviours, to challenge gender stereotypes and victim-blaming messages about sexual relationships, and to respond sensitively and appropriately to disclosures of sexual violence.

## **Best practice consent education**

Evidence indicates that teaching and learning about consent should commence in early childhood and should be taught in an ongoing, developmentally staged way as children grow older, through a comprehensive approach to respectful relationships and sexuality education. This enables students to incrementally build their knowledge and understanding as they progress through year levels. Materials for younger children may involve topics such as gender stereotypes and concepts of consent such as needing to ask and give consent for physical touch such as hugging, while older students may have more detailed conversations about consent in sexual relationships and about sexual violence. Consent education should be scaffolded by teachers who have access to ongoing, comprehensive professional development to ensure they are confident, engaged and have the skills and knowledge to deliver respectful relationships content, including consent education, to their students in a safe and effective way.

Best practice curriculum should include specific lessons on consent, but these should be appropriately contextualised within a broader program of teaching and learning about gender equality and respectful relationships, delivered in an age-appropriate manner. This helps to not only teach the important principles of consent, but also to challenge and critically engage with the societal context in which sexual violence occurs.

The [International Technical Guidance on Sexuality Education](#) provides a strong evidence base for the teaching of consent within a framework of human rights and gender equality, and based on age- and developmental-appropriateness across all year levels. Sexual consent can be taught from Foundation onwards in age-appropriate, scaffolded ways that teach children about their bodies, relationships, feelings, and rights from an early age.<sup>7</sup>

Our Watch emphasises the importance of the principle that children and young people should have meaningful participation in their own learning and encourages consideration of this in relation to all areas of young people's education, including relationship and sexuality curriculum. Ensuring young people have a voice in relation to their education and learning affirms their agency, independence and leadership. In practice, it helps create more diverse,

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<sup>7</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO) (2018), *International Technical Guidance on Sexuality Education*, retrieved online 07/05/2021 [https://www.unaids.org/sites/default/files/media\\_asset/ITGSE\\_en.pdf](https://www.unaids.org/sites/default/files/media_asset/ITGSE_en.pdf)

as well as more relevant, meaningful and positive learning experiences, and it supports students to feel empowered to make other decisions about their own lives.

## **The important role of teachers in consent education**

Teaching consent and sexuality education as part of an effective approach to respectful relationships education requires expert knowledge and skills. The effective and nuanced teaching of consent is a specific skill. System wide implementation support, and ongoing, evidence based professional development is needed to enable school staff to develop the skills and knowledge to deliver consent education safely, confidently and effectively across all year levels.

Evidence consistently indicates that the lack of appropriate teacher training and professional learning has been a barrier to effective implementation of consent and respectful relationships topics in schools.<sup>8</sup> This can result in inadequate or inconsistent integration of respectful relationships and consent education into curriculum, as well as teachers having a lack of confidence to address topics related to sexuality, consent, and relationships.

Conversely, evidence indicates that well-trained and supported teachers can find ways to highlight and proactively address the drivers of gender-based violence, both through their delivery of learning materials and in their general interactions with students.

This means that fundamental to the successful implementation of consent and violence prevention education is the development of a professional learning strategy, supported by state-based departments of education, which enables teaching staff to build their knowledge and confidence in the delivery of relevant curriculum, ensures the safety of students and enhances the sustainability of progress in reducing the drivers of gender based violence. These learnings should be situated within the broader professional learning strategies on respectful relationships education and primary prevention of gender based violence.

Importantly, this support should include strategies for tailoring delivery that respond to the diverse learning needs of students – including students with disability, students who do not speak English as a first language, Aboriginal and Torres Strait Islander students, and LGBTIQ students.

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<sup>8</sup> Our Watch (2021). *Respectful relationships education to prevent gender-based violence: Lessons from a multi-year pilot in primary schools*, Our Watch, Melbourne, Australia.