

Image-based abuse and revenge porn

WHAT IS IMAGE-BASED ABUSE?

Image-based abuse means taking, sharing, or threatening to take or share, a nude or sexual photo of a person without their consent.¹

One form of image-based abuse is “revenge porn”, when an ex-partner shares an intimate image for revenge.

Other 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. It is a crime and it is not acceptable.

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.²

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:

- Record an intimate image without consent (section 91P);
- Distribute an intimate image without consent (section 91Q); or
- Threaten to record or distribute an intimate image (section 91R).

The maximum penalty for each of these offences is 3 years in custody.

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.

It is also an offence under section 474.17 of the *Criminal Code Act 1995* (Cth) to use the internet or a phone in a way that is menacing, harassing, or offensive. This can include distributing, or threatening to distribute, image-based abuse.

WHAT IS AN INTIMATE IMAGE?

For the purposes of the *Crimes Act 1900* (NSW), an *intimate image* means an image of a person’s genital or anal area, breasts, 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 are under 18 (or you were under 18 when your 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.

¹ Henry, N., Powell, A. & Flynn, A. (2017) *Not Just "Revenge Pornography": Australians' Experiences of Image-Based Abuse. A Summary Report*. Melbourne: RMIT University

² As above.

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

If you know who posted the image, you can ask them to take it down, stop sharing it, and delete the file. You can also tell them that it is against the law to share the image without your permission.

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.

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:

[Facebook](#)

[Twitter](#)

[TikTok](#)

[Instagram](#)

[Snapchat](#)

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. They have powers under the *Enhancing Online Safety Act 2015* (Cth), including:

- sending an enforceable removal notice to the service where the image is hosted;
- issuing a formal warning;
- giving an infringement notice;
- seeking 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. You can report image-based abuse to the eSafety Commissioner using the form [here](#).

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

[The Safe Relationships Project](#) is a NSW state-wide domestic violence court support and legal advice service for LGBTIQ+ people.
T: (02) 9332 1966 or 1800 244 481
E: srp@iclc.org.au

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

This information is current to 22 September 2021 and reflects the law as it applies in the State of New South Wales, Australia. It is general information and is no substitute for legal advice tailored to your particular circumstances. For assistance, contact the ICLC on 9332 1966.