What are my options?
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Terms and definitions

Sexual assault, sexual violence, and consent

In simple terms, sexual assault is any unwanted or unlawful sexual contact. An Australian Government provides two detailed definitions, as follows:

**Sexual violence** is behaviour of a sexual nature directed toward a person which makes that person feel uncomfortable, distressed or threatened, and to which that person has not freely given consent, or which involves another person using physical, emotional, psychological or verbal force or coercive behaviour against that person. Sexual violence can take place in the context of family or domestic violence (e.g. an act of sexual violence committed against an intimate partner or a family member) or outside of the family or domestic violence context (e.g. an act of sexual violence committed by a neighbour, work colleague, co-tenant, carer, or stranger).

The term ‘**sexual assault**’ is commonly used to describe a legally-defined criminal offence which involves physical assault of a sexual nature directed towards another person without their consent. This includes a range of behaviours legally defined as sexual crimes such as rape, sexual assault with implements, being forced to watch or engage in pornography, forced prostitution, and being made to have sex with friends of the perpetrator.¹

To ‘**consent**’ to something means to agree freely, without being bullied, threatened, manipulated or tricked. A person is not able to consent to sexual intercourse or any other sexual activity they are asleep, unconscious, and/or intoxicated.

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The Legal Aid Commission of Tasmania explains that:

Anyone can withdraw their consent at any time – it doesn’t matter if you’ve already started to have sex. If one person isn’t into the sexual activity, then you have to stop. Some people might give non-verbal signs that they want to stop instead of saying ‘no’. Non-verbal signs can include things like turning away, pushing your hand away or not responding to your touch. Touching someone sexually if they don’t want to is a crime – whether they’ve actually said no or not.²

### Age and consent

Each Australian state and territory has laws about sexual activity involving children and young people. Depending on state/territory laws and other considerations (e.g. relative ages of the parties, the nature of the relationship, and any power imbalances), the activity may constitute sexual assault, regardless of whether the young person consented. In Tasmania, the Criminal Code Act 1924 (Tas) contains the relevant law in this area. The Tasmanian Law Handbook provides the following summary:

It is a crime to have sexual intercourse with a young person under the age of 17 years (s124). Consent of the young person is only a defence in two situations. First, where the young person is 15 years of age or older and the accused person is not more than 5 years older. Secondly, where the young person is 12 years of age or older and the accused person is not more than 3 years older than the young person. It follows that the consent of a child under 12 years of age is never a defence.³

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Problem Sexual Behaviour (PSB) and Sexually Abusive Behaviour (SAB)

The term ‘Problem Sexual Behaviour’ (PSB) is generally used in reference to children and young people up to and including the age of 17.

It covers behaviours of a sexual nature that:
- are not considered to be ‘normal’ in relation to age and level of development; and
- have negative impacts on their functioning.

This may include behaviours such as excessive self-stimulation or preoccupation with pornography, which isolate them from normal social and/or learning opportunities.

‘Sexually Abusive Behaviour’ (SAB) is a type of Problem Sexual Behaviour. It involves forceful or threatening behaviour by a child or young person towards another, to touching or other intimate/sexual activities. For information about PSB/SAB and support options, please contact us.
Impacts of sexual violence

Sexual violence can be a traumatic experience, which people recover from in different ways. It is normal to feel anxious, sad, angry, and confused. Talking to someone you trust or seeking professional support may be really helpful. Common responses include:

- Shock/disbelief – “I never thought this could happen to me”
- Fear – “Will the perpetrator hurt me again?”
- Anger – “How dare they do this to me?”
- Shame – “How can I show my face again?”
- Guilt/self-blame – “If only I hadn’t…”
- Betrayal – “But I trusted them”
- Numbness – “I feel so hollow”
- Worry/anxiety about the future – “Will my life ever be the same?”

Some common symptoms and effects of trauma are:

- Flashbacks
- Nightmares
- Mood swings
- Insomnia
- Exhaustion
- Loss of appetite
- Over-eating
- Feeling numb or ‘spacey’
- Avoidance of people and places
- Anxiety and panic attacks
- Depression
- Risk-taking behaviour
- Self-harming, or self-medicating through alcohol and/or drug use

Services like SASS provide a safe space for talking things through, considering options, and taking steps towards recovery.
Options – support, medical, reporting to police

All survivors of sexual violence and other crimes have the right to receive easy-to-understand, accurate information about their options. SASS provides information about support, medical and reporting options, and can help to arrange service responses based on your decisions. If you would like more information about any of the options discussed in this booklet, please contact us. If you need to access an interpreter, this can be arranged by SASS, the Royal Hobart Hospital, Tasmania Police, or other support services.

There are no time limits for reporting sexual assault.

Summary of options – recent sexual assault

- Accessing crisis and/or ongoing support from SASS and other services or professionals, in person or by phone.
- Accessing emergency medical assistance.
- Having a Forensic Medical Examination (FME).
- Having medical checks/treatment for sexually transmitted infections (STIs).
- Accessing emergency contraception.
- Reporting informally to police.
- Making a formal statement to police.
- Having a support person (e.g. a SASS worker) with you at the FME or police interview.
- Doing any combination of the above.
- Doing none of the above.
- Changing your mind at any stage.4

4 If the matter involves allegations of harm to a person aged under 18 years, the police are mandated to investigate.
Summary of options – past/historical sexual assault, and other types of sexual violence (e.g. online harassment)

- Accessing crisis and/or ongoing support from SASS and other services or professionals, in person or by phone.
- Reporting informally to police.
- Making a formal statement to police.

- Having a support person (e.g. a SASS worker) with you at the police interview.
- Doing any combination of the above.
- Doing none of the above.
- Changing your mind at any stage.\(^5\)

\(^5\) As above.
Sexual Assault Support Service (SASS)

Sexual Assault Support Service (SASS) Inc. is a community-based organisation that is committed to the elimination of all forms of sexual violence.

We believe that everyone has the right to feel safe, and to make decisions about their own body. We also believe that:

- Sexual violence is an abuse of power.
- No person deserves to be sexually assaulted.
- A person who commits sexual assault is responsible for their own behaviour.

We provide respectful, trauma-informed services to survivors of sexual violence, and their family members/support people (including professionals). Our services are free of charge to people of all ages, genders, and backgrounds.

Our services include:

- 24/7 crisis response service, including coordination of medical and police responses to sexual assault.
- Counselling (in person or by phone), case management, and advocacy.

SASS can assist you with referrals to any other services you need (e.g. emergency accommodation, emergency relief, legal advice, mental health support). A contact list of services is also provided on page 22 of this booklet.

SASS’s business hours contact number is (03) 6231 1811. The number for 24/7 crisis support is 1800 MYSUPPORT (1800 697 877). Information is also available on our website: www.sass.org.au
Medical options and processes

Forensic Medical Examination

What is a Forensic Medical Examination?
The purpose of a Forensic Medical Examination (FME) is to gather evidence, following an alleged sexual assault incident. The examination itself will not prove or disprove whether sexual assault has occurred. Any evidence collected may be used later, if the case goes to court. The ideal time for the FME to be conducted is within 72 hours of the assault, but evidence may still be collectable outside of this timeframe.

In the time between the assault and the FME, it is best to avoid the following (where possible):
• showering
• eating or drinking
• cleaning teeth
• toileting

Any clothing items worn at the time of the assault should also be brought to the FME, as they may be needed for evidence collection purposes. Other items that could be useful in the collection of evidence include bed sheets, cushions or any other fabrics that may have traces of evidence on them.

Where is the FME conducted?
In Southern Tasmania, all Forensic Medical Examinations are conducted at the Sexual Assault Medical Service (SAMS) Unit. The SAMS Unit is located at the Royal Hobart Hospital (RHH). It is a private hospital suite with a small waiting area attached, which has tea and coffee facilities. The SAMS Unit is kept locked and is only used for forensic examination purposes. Forensic medical staff are on call 24 hours a day.

Who arranges the FME?
SASS coordinates the FME process for people aged 17+ years of age. To enquire about an FME, please contact SASS on 1800 MYSUPPORT (1800 697 877). We will provide you with information about the process and after seeking your consent to proceed, obtain relevant information to pass on to the Forensic Examiner. RHH staff, Tasmania Police, GPs, or other helping professionals may also contact SASS to arrange an FME.

FMEs for children and young people aged under 17 years are coordinated by the Paediatrician on-call for sexual assault. If we receive a query about an FME for a child or young person, our staff will contact the
on-call Paediatrician after collecting relevant information. Professionals from other services may access the on-call Paediatrician directly, via the RHH Switchboard.

SASS is happy to support you throughout the FME process. Tasmania Police, Child Safety Services, or other professionals may also ask us to attend.

What does the FME involve?
The Forensic Examiner will meet with you and introduce any other assisting staff (e.g. nurse). Before proceeding with an examination, the Forensic Examiner will explain the process and ask you (or a parent/guardian) to sign a consent form. Next, the Examiner will ask questions about the assault, and write a summary using your own words. If the examination goes ahead, the Forensic Examiner will be looking for evidence of sexual assault such as bruising, scratches and other markings based on the accounts given in your statement. Swabs of internal body areas may also be taken if necessary.

After the procedure, the Forensic Examiner will ask for instructions about where to send the Sexual Assault Investigation Kit (SAIK). Depending on the circumstances and your wishes, the SAIK will either be provided directly to police, or arrangements will be made for it to be transferred to the Forensic Science Services Tasmania (FSST) laboratory directly for secure storage or disposal.

Do police attend the FME?
It is not essential for a police officer to attend the forensic examination. However, one or more officers may attend if:

- the police attended an incident and the FME was coordinated after the incident; or
- you have decided to provide a police statement immediately after the FME.

Any police officers attending will sit in the SAMS Unit waiting area during the procedure.

Medical examination

The purpose of a medical examination is to ensure that there is no damage or injury that requires treatment. An examination for this purpose does not need to be done immediately. Depending on your preferences, it may be conducted by:

- your General Practitioner (GP); or
- a medical practitioner at a Family Planning clinic or health centre.
Emergency contraception

Emergency contraception is available from pharmacies at a cost (with or without a medical prescription). It is also available at the Royal Hobart Hospital, including the SAMS Unit. It should be taken within 72 hours if possible.

Sexually Transmitted Infection (STI) checks

You may be concerned about the possibility of the transmission of a sexually transmitted infection (STI) as a result of the assault. Testing in the 72 hours after an assault is not routine, but can be requested. The Royal Hobart Hospital has a clinic (separate from the SAMS Unit) offering follow-up medical checks and STI tests. Tests may also be performed by GPs, or medical practitioners at Family Planning or the Sexual Health Unit. If necessary, the examining doctor can provide antibiotics at the time of the examination.
Police reporting options and processes

What is the role of the police?

Tasmania Police is responsible for the investigation of crime. Police officers investigate reported crimes and gather evidence from victims, witnesses, suspects, and others. On the basis of evidence collected, police will make decisions about whether to pursue charges. This process may take some time.

What reporting options are there?

Information Report
If you don’t feel comfortable making a formal complaint, you have the option of reporting informally to the police, either in person or over the phone. This can also be used as an opportunity to discuss making a formal statement if you are unsure. You can provide the police with as many or few details of the incident(s) as you feel comfortable with. The officer will take the details that you choose to provide. The details will not be compiled into a statement, and the police will not investigate the allegations or use the information in court without your permission. Information Reports may be used in cases where repeat or serial offenders are operating, and may provide the police with a broader picture than they would otherwise would have had.

Formal Statement (or Statement of Complaint)
The choice about whether to proceed with a formal complaint to police should always lie with you. Note: If the matter involves the assault of someone under the age of 18 years, Tasmania Police is mandated to investigate.

If you decide to proceed with a complaint, you are not required to prove any of the information that you give, or direct the discussion. The police have specially trained officers to handle the interview. For the purposes of this process, you will be considered a ‘witness’, and this means that you do not need a lawyer.

The police interviewer will ask about the incident(s), e.g. relevant dates/times, locations, phone or online records, and specific details of what happened. This process can take
some time, as all of your responses will be written down. In some circumstances, the interview may be recorded using a recording device. At the end, you will be asked to sign your statement, endorsing that the contents of the statement are true and correct. The police may provide you with a copy of your statement; otherwise, feel free to ask for one.

Where are police statements taken?
Statements are usually taken at a police station, but may be taken by agreement at your home or at SASS during business hours. Arrangements may depend on police availability. If the assault occurred some time ago, the statement will usually be conducted during business hours. You can take breaks during the police interview if you need to.

Tips for making a formal statement
✓ Use your own language.
✓ Be as clear and concise as possible.
✓ Restrict your statement to what you actually remember.
✓ Don’t be afraid to ask the police questions. If you don’t hear something clearly or if you’re unsure of any question or word/phrase, ask them to repeat it or use different wording.
✓ Write some notes before making your statement so that your thoughts are in order and you feel more relaxed. If you can’t remember much about the assault, jot down things such as the season or time of day that the assault occurred, as well as anything else that may help jog your memory.
✓ Have a support person with you, if this is helpful.
Police investigation process

As part of the investigation process, detectives will interview any witnesses and/or suspects. Depending on the circumstances, police may coordinate responses across police stations and/or other States/Territories in Australia or overseas. The investigation process can take some time e.g. several months or more.

One or more suspects may be charged under relevant legislation, such as the Criminal Code Act 1924 (Tas) or Police Offences Act 1935 (Tas). The former is generally referred to as “the Criminal Code”. The Tasmanian Law Handbook provides an overview of sexual assault offences, see: http://www.hobartlegal.org.au/tasmanian-law-handbook/crime/sexual-offences/offences

The police will inform you about whether or not the matter will go to court, and which court it will be heard in. If no charges were laid and the matter will not proceed to court, you can arrange with the police officer handling the case to have your clothing and any other personal belongings returned to you.

Court processes

As sexual offences are usually tried under the Criminal Code,6 this section is focused on Supreme Court processes. If your matter is to be heard in the Magistrates Court only, Tasmania Police or the Victims of Crime Service can provide information and guidance about relevant processes, and your role in these.

If a charge is made under the Criminal Code Act 1924 (commonly referred to as “the Criminal Code”) Tasmania Police will send all evidence to the Office of the Director of Public Prosecutions (DPP) for consideration. A decision will then be made as to whether the case will proceed. This may depend on the strength of the evidence provided. The charges may be altered by the DPP.

If the matter is to proceed, a representative from the DPP’s office will make an appointment to see you and go through your evidence in preparation for Court proceedings. **You are a witness for the Crown – you do not need your own lawyer.** Information about DPP’s Witness Assistance Service (WAS) is provided on page 18 of this booklet.

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If the person(s) charged plead ‘not guilty’, or do not enter a plea, there may be two or more court hearings. There may be a hearing called Preliminary Proceedings, as well as the trial. Ideally, you will have the same Crown Prosecutor for all hearings. A DPP representative will talk to you before each hearing and explain what is required of you.

**Preliminary Proceedings**

There may be a ‘Preliminary Proceeding’ before the trial. This is held in the Magistrates Court, and is where the evidence is considered before the case goes to the Supreme Court. The person(s) charged will usually be present at this. Victims of sexual crimes are generally not obliged to be present or to give evidence in these proceedings unless there are exceptional circumstances, but your pre-recorded evidence may be presented to the Magistrate.

**The trial**

If the matter proceeds to trial, this will be held at the Supreme Court, for a judge and jury to hear the evidence. You will be expected to give evidence in court. Giving evidence in court can be stressful, and it is normal to feel anxious about it. While court processes may be complicated, the DPP’s Witness Assistance Service or the Victims of Crime Service can explain them to you.

**Victim Impact Statement**

A Victim Impact Statement (VIS) is your opportunity to advise the court of the various ways that the crime has affected you. It is entirely up to you to decide whether you wish to make a statement. It is used in court if the offender pleads guilty or is found guilty by the court. It is presented to the judge or magistrate in writing before sentencing.

You have a choice of three options:

1. The VIS can simply be handed to the judge or magistrate so that he/she can read your statement.
2. You can read the statement aloud, to the court.
3. You can request someone (generally the prosecutor) to read it aloud on your behalf.

Victims of Crime Service, the DPP’s Witness Assistance Service, or SASS can assist you to draft your statement. It is important that the statement is in your own words, and is signed and dated. More information about Victim Impacts Statements is available at: http://www.justice.tas.gov.au/victims/vis
Victims Support Services & Victims of Crime Service

Victims Support Services is run by the Department of Justice. It is responsible for:

- the administration of the Eligible Persons Register (previously known as the Victims Register) and the provision of information to victims from that Register
- liaison between the victim and other divisions of the Department of Justice
- operation and management of the Victims of Crime Service
- provision of information to victims regarding court processes
- the provision of the Court Support and Liaison Service for victims of family violence (as part of the ‘Safe at Home’ project)
- co-ordination of Victim/Offender Mediation in a limited number of appropriate cases
- administration of Victims of Crime Assistance (financial assistance for victims of crime) and the provision of assistance to the Criminal Injuries Compensation Commissioners.7

The contact numbers for this service are (03) 6165 7524 or 1300 663 773.

The Victims of Crime Service offers the following types of support and assistance:

- personal support, counselling and information
- referral to appropriate community services and resources
- information regarding the criminal justice system
- support for people attending court
- assistance with Victim Impact Statements
- information and assistance with Victims of Crime Assistance applications
- information on custody, bail and parole processes
- advocacy for victims rights8

The contact number for this service is 1300 300 238.

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7 See: http://www.justice.tas.gov.au/victims/about
Witness Assistance Service

The Witness Assistance Service (WAS) is part of the Office for the Director of Public Prosecutions (DPP). The WAS’s role is to assist witnesses giving evidence for the State. Support is also available for family members.

9 See: http://www.crownlaw.tas.gov.au/dpp/witness_assistance_service

The WAS can:

• provide information about Court procedures and legal processes
• provide crisis counselling, debriefing from Court and referral to services in the community
• liaise between witnesses and DPP staff
• provide Court familiarisation tours
• attend meetings with witnesses and victims; and
• assist in the preparation of victim impact statements.9
SUMMARY
Options, processes, and supports

RECENT ASSAULT:
- FME / other medical responses

RECENT OR HISTORICAL ASSAULT:
- Formal Police Statement
- Investigation
- Charge
- File reviewed by DPP
- Decision to proceed to trial
- Hearings / Trial
- Sentencing (if the defendant is found guilty)
- Information Report to Police
- No charge
- Decision not to proceed to trial

SASS assistance and support available, plus:
- Victims Support Service / Victims of Crime Service
- Witness Assistance Service (DPP)
- Other services depending on needs (e.g. housing)
Eligible Persons Register and Compensation Options

Eligible Persons Register

The Eligible Persons Register was previously known as the Victims Register.

The Victims Support Services provides the following overview:

What is the Eligible Persons Register?
The Eligible Persons Register is an automated database run by Victims Support Services that allows victims – if they choose – to be given information about the offender’s location and progress in the prison system.

What information is kept on the register?
A victim’s name, address and telephone number, the name of the offender/s involved and the nature and date of the crime.

Contact details are needed so that we can keep victims updated. People can leave the register by advising us in writing of their wish to do so.

Who will have access to the register?
Access to this information is limited to staff of the Department of Justice with a genuine and essential need to have access. Information will not be available to offenders or other persons.

Why be on the register?
Primarily for your peace of mind. We can give you updates of a prisoner’s location, classification, parole and hearing dates, as well as possible release times.¹⁰

Compensation

Civil remedy
Taking a civil action involves suing the offender for damages. If you do so, you will need to engage a lawyer. Neither the police nor the Crown Prosecutor participate in this process. As the person lodging a civil remedy action, you are responsible for finding witnesses, paying costs etc.

Victims of Crime assistance

Survivors of violent crimes may apply to the Department of Justice for Victims of Crime financial assistance, if they are unable to recover monies from the person who committed the crime. Victims Support Services processes applications, and independent decisions about awards are made by Independent Criminal Injuries Compensation Commissioners.

In order to make a claim, there is no requirement that the case has been to court. You will need to prove that you have suffered injury or loss as a result of someone’s criminal conduct. The overall timeframe for the process will depend on the availability of police files and medical/counselling reports, and in some cases, Magistrates Court or Supreme Court outcomes.

For more information, please contact Victims Support Services on (03) 6165 7524 or 1300 663 773.
Contact list

Emergency Services (Police, Ambulance, Fire): 000

Tasmania Police (non-emergency, switchboard for all stations): 131 444

Office of the Director of Public Prosecutions (DPP):
Hobart – 6165 3600
Launceston – 6777 2923
Burnie – 6477 7194

Advocacy Tasmania Inc: 1800 005 131

Alcohol & Drug Information Service (24 hrs): 1800 811 994

Beyond Blue (24 phone line, online support also available): 1300 224 636

Family Planning Tasmania: (03) 6273 9117

Family Violence Counselling & Support Service: 1800 608 122

Housing Connect (24 hrs): 1800 800 588

Kids Helpline (24 hrs): 1800 551 800

Laurel House (sexual assault support):
North – 6334 2740
North West – 6431 9711

1800 RESPECT (24 hrs): 1800 737 738

Legal Aid Commission Tasmania: 1300 366 611

Lifeline (24 hrs): 13 11 14

Mental Health Services Helpline (24 hrs): 1800 332 388

Migrant Resource Centre: 6221 0999

National Relay Service: 1300 135 513

Royal Commission into Institutional Responses to Child Sexual Abuse: 1800 099 340

Knowmore legal advice service: 1800 605 762

Royal Hobart Hospital Switchboard: 6222 8308

Support Help Empowerment (SHE): 6278 9090

Suicide Call-Back Service (24 hrs): 1300 659 467

Translating and Interpreting Service (TIS): 131 450

Victims of Crime Service: 1300 300 238

Victims Support Services Tasmania: 1300 663 773

Women’s Legal Service Tasmania: 1800 682 468
Sexual Assault Support Service

Ingomar House
34 Patrick Street, Hobart
03 6231 1811 (9am–5pm, Mon–Fri)
1800 MYSUPPORT (24 hours)
1800 697 877
reception@sass.org.au
www.sass.org.au

SASS receives funding from the Tasmanian Department of Health and Human Services (DHHS) and Department of Education (DoE), and the Australian Department of Social Services (DSS).

SASS is accredited by the Quality Improvement Council (QIC).