

Issues Paper 1 – The guiding principles for the Law Reform Commission’s Review of Western Australia’s sexual offence laws

We have tentatively identified six principles to guide our review of sexual offences.

The principles are of equal importance and are not listed in order of priority.

Principle 1: Sexual offence laws should protect sexual autonomy and bodily integrity

While sexual autonomy is a complex concept, at its core there are two key components:

- People should generally be free to determine what sexual activities they participate in.
- People should be free to refuse to engage in sexual activities at any time for any reason.

Principle 2: Sexual offence laws should protect people who are vulnerable to sexual exploitation

Some people, such as children, may be particularly vulnerable to sexual exploitation. The protective principle provides that the law should protect such people from being exploited.

Principle 3: Sexual offence laws should incorporate a model of shared responsibility

The principle of shared responsibility provides that all participants to a sexual activity have a shared responsibility to ensure that the other participants are freely and voluntarily consenting.

Principle 4: Sexual offence laws should be non-discriminatory

While sexual offences are most often committed by men against women, all people can experience and perpetrate sexual offences. The non-discrimination principle recognises that everyone is equally deserving of the protection and sanction of the law, and requires sexual offence laws to be framed in a gender neutral and non-discriminatory way.

Principle 5: Sexual offence laws should be clear

People need to be able to clearly understand what consent means, and what they must do to make sure the other person is consenting. They also need to know when they must not engage in a sexual activity.

Principle 6: The interests of complainants, accused people and the community must all be considered

Are the six guiding principles appropriate or should they be changed? If so, how?

A full discussion of the principles is in the Discussion Paper volume 1 at paras 1.75-1.90.