

LRC
Legal Resources Centre

Sexual Violence and Harassment in Schools: Information for Learners

Some important words

This section of the booklet will explain some of the important words which relate to **sexual violence** and **harassment** in schools.

This section should help you understand the topic and this booklet.

The Words and What They Mean

Child

Any person under the age of 18 (1-17 years of age)

Confidential

This means that a person who knows something will keep what they know private and won't tell anyone else unless they get your permission first.

Consent

Consent is giving someone permission to do something. This means that they ask you to do something, and you say yes. For example, if someone runs up to you and hugs you, but you didn't want them to do that, they have hugged you without your consent.

Consent cannot be forced or given under pressure from the person who is asking for permission.

See the section below called 'Consent' for more information.

Counsellor

Someone who can talk to you about how you are feeling and is trained to help you understand your feelings and deal with them in a healthy way.

Harassment

Putting someone under pressure or making them feel scared through behaviour, which might be aggressive or repeated or just unkind. See 'sexual harassment' below for more information.

Laws

Laws are rules which apply to every person in the country. They explain what everyone can and cannot do and explain the consequences if someone breaks the rules.

Offence

The act of breaking the law.

Rape

When sex happens and any person involved in the sex doesn't give consent. See the entry in this table called 'Consent' for more information.

Sexual

Sexual is a word to describe something related to sex. For example, 'sexual touching' is touching someone on a part of their body which is private, such as their buttocks, thighs or chest.

Sexual Harassment

Harassment is when another person's behaviour is so rude, angry or unpleasant that it makes you feel scared. You might feel scared about your own safety, your personal belongings, your money, or about damage to your own feelings or mood. Either way, this is harassment.

Harassment becomes sexual harassment when there is a sexual element to the other person's behaviour. Some examples of sexual harassment might be:

Another learner asking you repeatedly whether you've had sex before.

A member of staff showing you photographs of their body without clothes on.

A teacher hugging you repeatedly.

A friend asking you repeatedly to touch parts of their body, such as their legs or chest.

Another learner keeps making jokes about you, and the jokes are sexual or are about your private parts of your body.

If a teacher touches you anywhere on your body which makes you feel uncomfortable – especially on your lips, your legs, your chest, or your bum – but this could be anywhere.



Sexual Violence

This is when a person (it could be an adult or another learner) does or tries to do anything to you, which is sexual, and where that person uses force, threats or intimidation to do it to you.

Some examples of things that could be sexual violence:

An older learner makes you touch their body when you don't want to.

A friend makes you take off your clothes or takes off their clothes in front of you and makes you look at them.

A teacher asks you to have sex with them and tells you they will hurt you if you don't do it.

Another learner forcefully grabs any part of your body which is considered private – especially on your lips, your legs, your chest, or your bum – but this could be anywhere.

If someone forces you to watch pornography.

Statutory Rape

Where sex happens and although the people involved said 'yes' (they consented), one or more of the people involved were too young to consent. According to the law, statutory rape happened even though permission was given.

Trusted Adult

Someone 18 years of age or older who you trust to support you and feel comfortable around, such as a parent or a guardian, an aunt or uncle, or a favorite teacher.

Victim/Survivor

The person who suffers or is hurt when an offence happens (see 'Offence' above).

For example, it is against the law to force someone to touch you. So, if a teacher forces a student to touch their body, they have committed an offence. The person who is forced to touch their body is the victim/survivor.

What is the purpose of this guide?

This guide was written for two reasons:

1. To help you understand more about **sexual violence** and **harassment** in schools.
2. To explain to you what to do if you or a fellow learner have been a **victim/survivor** of **sexual violence** or **harassment**.

Who is this guide for?

This guide is for learners aged 12 years - 18 years. If you are reading this booklet but you don't understand everything it says or you are younger than 12 years of age, we would encourage you to read it with a **trusted adult**.

If there isn't anyone who you trust and can talk to, there are helpful contacts on the back of this booklet who can help.

What if I don't understand this guide?

We have provided a glossary at the start of this guide (see page 2 – 5), which helps to explain the important words used in this guide which you might not understand. Words which are defined in the glossary will be in **bold and italics** in the rest of the booklet, so you know that you can check what they mean at any time.

However, even if you think you do understand the words, we would still recommend reading the glossary – many people misunderstand important words!

What topics will this guide explain?

This guide will explain the important topics around **sexual violence** and **harassment**, so that you can spot when this might be happening and know what to do about it. These topics include:

1. **The law:** around **sexual violence** and **harassment**
2. **Consent:** and how this relates to sex
3. **Offences:** how to tell when an **offence** of **sexual violence** or **sexual harassment** has happened and who you should tell.

1. The Law

The **law** in South Africa means that certain things are never allowed:

- No one can touch a person or have sex with them without their **consent**. If they do, they have committed an **offence**.
- A person over the age of 18 should not have sex with a person under the age of 17. If they do, they have committed an **offence**.
- No one should harass anyone. If they do, they have committed an **offence**. This is true whether the behaviour is sexual or not.
- No one should commit **sexual violence** against another person. If they do, they have committed an **offence**.
- No one should show anyone the private parts of their body (those which they keep under their underwear — breasts, buttocks, penis, vagina) in public or without the **consent** of the person they're showing. Schools are a public place — so no one should show you or 'flash' you any private part of their body at school.

If the **police** have good reason to think that an offence has happened, they can **investigate** the person they think has broken **the law**. If you go to the **police**, and you tell them someone has committed an offence and that you saw it — this is a good reason. They should **investigate**.

2. Consent

When do I need to get consent?

Consent applies to any type of touching or sex. You should always get **consent** and give consent before touching someone or having sex with them.

Consent is ongoing – the person must continue to consent to you touching them throughout the activity. For example, someone might say yes to a hug, but if you won't let them go, and they want you to stop hugging them, this means you are now touching them without their **consent**.

Consent is necessary every time – just because someone was fine with being hugged when you saw them yesterday, doesn't mean you have their **consent** to hug them today. You need to get consent each and every time.

How do I get consent?

Let the person know what you want to do and find out if they want that too. For example, ask someone — ‘I’d like to give you a hug, is that okay?’ no — respect that! Don’t ask again straight away or lots of times — that could be **harassment**. If they say yes - you can hug them! But make sure you’re not stepping over boundaries — only hug them for as long as they want you to hug them. Don’t squeeze them too tight or touch them anywhere you wouldn’t usually touch when you give someone a hug.

Consent doesn’t have to be verbal. You can get consent from someone through body language. For example, if you stretch out your arms for a hug and the other person stretches out their arms too, you know you’ve probably got **consent!** However, humans are not great at reading body language, and sometimes we get it wrong. The best option is to ask, in words, and respect the other person’s answer. If they say no, they mean no.

We’ve used the example of a hug — but these rules apply to all types of touching, including sexual touching and sex.



Who can’t consent to sex?

Things get a bit complicated when it comes to giving **consent** to having sex with someone when you’re a child or a teenager.

- A **child below the age of 12 years** can never **consent** to sex. Sex with a **child** aged 11 years or less is always sex **WITHOUT consent**. If a person does this, they have committed an offence which is called **‘rape’**.
- A **child below the age of 16 but above the age of 12** can give **consent** to sex with another person below the age of 16, as long as that person isn’t more than 2 years older than them. For example, a 14-year-old can **consent** to having sex with a 15-year-old. However, a 12-year-old cannot **consent** to sex with a 15-year-old (even if they do say yes!). If this happens, the 15-year-old has committed an offence called **‘statutory rape’** — even though they gave permission, they were not seen as old enough to be able to give permission, and this will still be an offence.
- A **child below the age of 16** cannot give **consent** to sex with someone over the age of 16. For example if a 15-year-old has sex with a 17-year-old, this will also be statutory rape — it doesn’t matter if the 15-year-old was happy to have sex at the time.
- A learner **may never consent** to sex with an educator. This includes sex between a learner in Grade 12 who is 18 years of age or older and an educator.



3. Reporting an offence

The duty to report

- Anyone who knows or suspects (with good reason) that any of the **offences** discussed in this booklet, such as **sexual harassment, rape** or **sexual violence**, have happened against a child, should report that fact.
- In fact, it's an **offence** if you don't report a **sexual offence** against a child when you know it happened.
- In schools, the person who must report any **sexual offence** is the teacher or a member of staff — adults have more responsibility and understand these issues, so they are responsible for making sure **offences** in schools are reported.
- If you're a child and you're also the **victim/survivor** of a **sexual offence**, or you see someone else become the **victim/survivor** of a **sexual offence** — you should report it to try to keep yourself and everyone else safe, but you won't be in trouble if you don't.

I know about an offence. Who can I tell?

Any **child** who needs to report an **offence** can approach:

- the school principal,
- a parent or guardian,
- an educator,
- a member of the School Governing Body,
- a member of the Representative Council of Learners at the school or,
- any other person they feel comfortable communicating to.

The people listed above must provide a safe and private space for the **child** to explain what happened and how they feel about it. They should not tell anyone else unless you have given them your **consent** to do so. They must not turn you away.

It's very important that serious incidents like **sexual offences** are reported to the **police**, so that they can **investigate** and make sure the person responsible for the **offence** (the **perpetrator**) faces the consequences of their actions and isn't able to hurt other people. However, no one can force you to make a report to the **police** if you are a **child** or a **victim/survivor**.

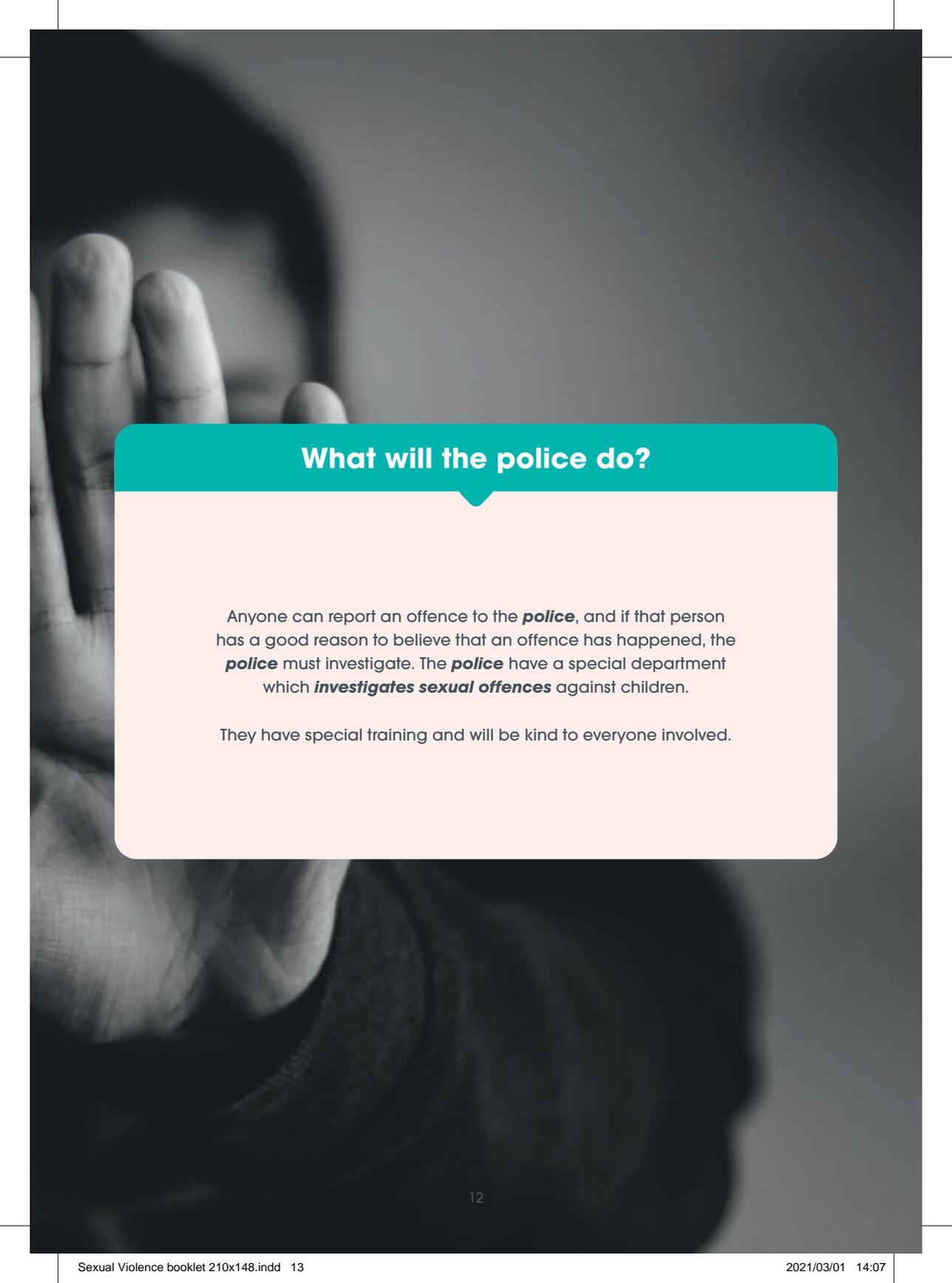
Many **victims/survivors** are worried that the **police** won't believe them or that they will be blamed for the **offence**. **Please do not worry.** The **police** have to take you seriously and give you the help that you need. If they don't, they have broken rules about their job as a **police** officer, and you can complain about them to other **police** officers who are in charge of them.

If you have been the **victim/survivor** of a **sexual offence**, your school community, including your Principal, your School Governing Board, your teachers and other members of school staff must help you if you report that an **offence** has happened. They are responsible for making you feel safe and respected. They can support you, help you speak to a doctor or **counsellor**, and **investigate** what has happened to you.

What will happen to the perpetrator?

If you report that you have been the **victim/survivor** of a **sexual offence**, what happens to the person who committed the offence against you will depend on who it is.

If the **perpetrator** was an educator, school principal or a member of school staff, they will have to stop teaching or working at the school until an investigation has happened. They won't be able to speak to you or contact you. The **police** will investigate them, and they will be punished for their behaviour if the **police** are able to prove what they have done. They would be banned from being a teacher or working with **children** ever again. Their name will be written on the National Register of Sex Offenders — a list of all the people who have committed **sexual offences** in South Africa.



What will the police do?

Anyone can report an offence to the **police**, and if that person has a good reason to believe that an offence has happened, the **police** must investigate. The **police** have a special department which **investigates sexual offences** against children.

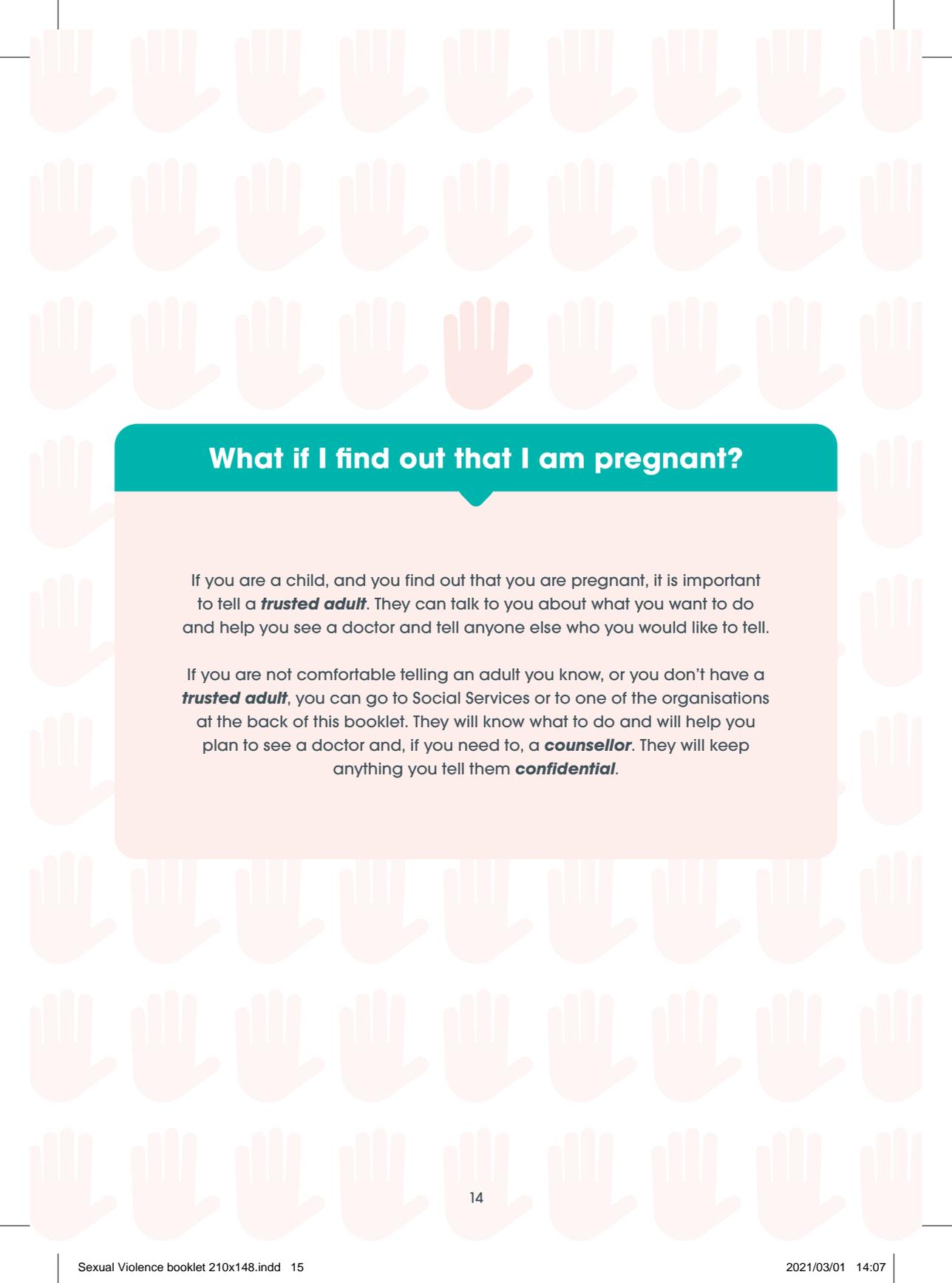
They have special training and will be kind to everyone involved.

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What if I have to give evidence in a court?

If you have been the **victim/survivor** of a **sexual offence** or if you saw one happen, you might need to 'give evidence' in court. This means explaining what happened to lawyers so that they can work out what happened and make sure the **perpetrator** is dealt with.

If this does happen, there are things that can be done to protect you. For example, you could give your evidence outside of court, with only a few trusted people in the room. You won't be forced to give evidence if you don't want to. You won't have to see the **perpetrator** again.

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What if I find out that I am pregnant?

If you are a child, and you find out that you are pregnant, it is important to tell a **trusted adult**. They can talk to you about what you want to do and help you see a doctor and tell anyone else who you would like to tell.

If you are not comfortable telling an adult you know, or you don't have a **trusted adult**, you can go to Social Services or to one of the organisations at the back of this booklet. They will know what to do and will help you plan to see a doctor and, if you need to, a **counsellor**. They will keep anything you tell them **confidential**.

Useful Contacts

These are organisations you can speak to if you have been a **victim/survivor** of a **sexual offence**, or you have seen a **sexual offence** happening to someone else. It is your choice whether you tell a **trusted adult**, such as a parent or a guardian, or speak to one of the organisations below first.

You will need a telephone in order to speak to any of these organisations. If you don't have a telephone — consider asking a **trusted adult** or a member of staff at your school if you can borrow one.

Organization

Contact Number

Childline	0800 055 555
Lifeline	0861 322 322
Child Protection Unit	012 393 2359/ 2362/ 2363
Teddy Bear Clinic	011 484 4554
SAPS Crime Stop	0860 010 111
SAPS Emergency Number	10111
South African National Council for Child & Family Care	011 492 2950
Child Welfare South Africa	0861 424 459
FAMSA	011 975 7107
GBV Command Centre SMS Life	31 531 (SMS Help)
Legal Resources Centre	011 838 6601