



Age of Consent

Information for all States

Safeguarding Children and Young People Policy

Age of Consent Information Australian States

**** Extracted from the Australian Institute of Family Studies Publication – July 2017**
(<https://aifs.gov.au/cfca/publications/age-consent-laws>)

If you require assistance or would like to talk to a trained professional about the issues described in this paper, please call [Kids Helpline](https://www.kidshelpline.com.au) on 1800 55 1800 or [Lifeline](https://www.lifeline.org.au) on 13 11 14.

If you believe a child is in immediate danger call Police on 000.

This document is provided as a guide only. Individuals are encouraged to check the currency of any information that is provided by contacting relevant departments or organisations.

If you are a child or young person seeking advice on sexual relations please refer to some of the following websites:

- [LawStuff](#) provides Australian state- and territory-specific legal information on a range of topics including sex, love and health.
- [ReachOut](#) has information on sex and relationships for young people.
- [Sex, Love and Other Stuff](#) is an online booklet for young men, developed with the help of young men, which talks about sex, relationships, power and respect.
- [What Do You Expect?](#) is an online campaign against sexual violence that provides young people with practical information about consent, sexual negotiations, sexting and safety strategies.

Age of consent laws attempt to strike a balance between protecting children and young people from exploitation and other harms, and preserving their right to privacy and healthy sexual development. Young people at the age of consent are viewed by law to have general sexual competence to enforce personal boundaries and negotiate the risks involved in sexual activities. When an adult engages in sexual behaviour with someone below the age of consent, they are committing a criminal offence (child sexual abuse). Age of consent laws cannot be considered in isolation to other legislation concerning issues such as sexual assault and child sexual abuse.

Why are there age of consent laws?

Age of consent laws are designed to protect children and young people from sexual exploitation and abuse. Such laws effectively determine that children and young people below the age of consent are yet to reach a level of general maturity enabling their safe participation in sexual activities. In relation to sexual abuse charges in each state and territory, the key difference between child sexual assault

and adult sexual assault is that adult sexual assault is based on the absence of sexual consent, whereas in child sexual assault, the issue of consent is superseded by age of consent laws. An important distinction should be made between "willingness" and "consent". A child may be willing to engage in sexual behaviour; however, as they do not have the psychological capacity to give consent according to law, all sexual interactions between an adult and a person under the age of consent are considered abusive.

What is the legal age of consent in Australian state and territory jurisdictions?

The legal age for consensual sex varies across Australian state and territory jurisdictions (see **Table 1** below). The age of consent is 16 years of age in the Australian Capital Territory, New South Wales, Northern Territory, Victoria and Western Australia. In Tasmania and South Australia the age of consent is 17 years of age.

Sexual interactions with 16 and 17 year old's under "special care"

Although the legal age of consent throughout Australia is either 16 or 17 years of age, legislation in New South Wales, Victoria, Western Australia, South Australia and the Northern Territory makes it an offence for a person in a supervisory role to sexually engage with a person under their special care who is aged 16 or 17 years. A person in a supervisory role providing "special care" may include: a coach, teacher, foster parent, religious official or spiritual leader, a medical practitioner, an employer of the child or a custodial official. For further information regarding sexual interaction with 16 and 17 years old under special care please see the relevant state or territory legislation.

Inappropriate and abusive sexual behaviour

Sexual interaction that is harmful and abusive between two young people under the legal age can be difficult to identify and determine. In situations where there is a clear age difference - for example a teenager and a young child - any sexual interaction is sexual abuse, as there is a definite power imbalance.

What if both parties are under the age of consent?

It is a common and normal part of sexual development for young people to explore and experiment in sexual interactions with their peers. Appropriate sexual exploration is when there is mutual agreement between same or similar-aged peers, it is non-coercive and all participants have the control to participate, continue or stop the behaviour. The state jurisdictions that provide a legal defence when the sexual interaction is between two young people close in age (Western Australia, Tasmania, Victoria and the Australian Capital Territory) are attempting to find a balance that protects children and young people from adult sexual exploitation in a way that does not criminalise them for having sexual relationships with their peers.

Table 1: Australian Age of consent laws by State/Territory

State	Legislation	Age of consent
ACT	Crimes Act 1900 (Section 55)	The age of consent for sexual interactions is 16 years.
NSW	Crimes Act 1900 (Section 66C)	The age of consent for sexual interactions is 16 years.
NT	Criminal Code Act 1983 (Section 127)	The age of consent for sexual interactions is 16 years.
QLD	Criminal Code Act 1899 (Section 215)	The age of consent for sexual interactions is 16 years.
SA	Criminal Law Consolidation Act 1935 (Section 49)	The age of consent for sexual interactions is 17 years.
TAS	Criminal Code Act 1924 (Section 124)	The age of consent for sexual interactions is 17 years.
VIC	Crimes Act 1958 (Section 8B)	The age of consent for sexual interactions is 16 years. <i>When you are 16 years or older in VIC, you can have sex with another person aged 16 or older if you both freely consent to it (however, you cannot have sex with someone who is caring for you, supervising you or has authority over you while you are aged 16-17 - as stated under 'Sexual interactions with 16 and 17 year old's under special care').</i>
WA	Criminal Code Act Compilation Act 1913 (Section 321)	The age of consent for sexual interactions is 16 years.