



Sex, young people & the law

This factsheet provides information on:

- What the law considers as 'sex'
- What the law says about consent, consensual sex, and non-consensual sex
- The legal age for having sex
- Mandatory reporting of under-age sex and sexual abuse.

This factsheet is about laws in Queensland, the Northern Territory, Western Australia, and South Australia. These are the states and territories covered by the *Young, Deadly, Free* Project.

What does the law consider as 'sex'?

- The definition of 'sex' differs in each state and territory. Generally 'sex' means vaginal, anal or oral sex - including with fingers or objects.
- Laws about sex can apply to touching a person in a sexual way, such as touching their vagina, penis, breast or bottom.
- Laws about sex can apply to performing sexual acts in front of someone, such as masturbating or pretending to masturbate.

What is consent in sex? What is 'consensual sex'?

- To legally have sex with someone they need to give their 'consent' – or their permission. Sex with consent is called consensual sex.
- Sex without consent is called 'non-consensual' sex.
- Sex can only be consensual if the consent or permission is given freely, without pressure. This applies for people having casual sex as well as for people in relationships, including married people.

The information in this factsheet is not a substitute for professional medical advice. To get a diagnosis and advice about treatment, contact your local Aboriginal health service or clinic nurse.





When is sex non-consensual?

- Sex is considered to be non-consensual if the person has said 'no' to sex, or has indicated that they don't want to engage in the sexual behaviour with non-verbal signs, such as pushing the other person away.
- A person can withdraw their consent, even if sex has already started. They might say 'stop' or 'no', or they might give non-verbal signs that they want to stop. A person might consent to one type of sex (e.g. oral) but not other types of sex (e.g. vaginal or anal).
- Sex is considered to be non-consensual if the person is:
 - o Under the 'age of consent' – see below
 - o unconscious or asleep
 - o pressured into having sex
 - o unclear about what's happening due to the effects of alcohol or drugs
 - o unclear about what's happening due to mental or physical impairment.
- Having non-consensual sex with someone can lead to serious criminal charges, including sexual assault or rape.

What is the 'age of consent'??

- The age of consent is the age from which a young person is considered to be able to freely give consent to having sex or engaging in sexual activity under state/territory laws.
- In all states and territories it is against the law to engage in sexual activities with a child or young person who is under the age of consent - even if the child or young person agrees to the sexual activity.
- The age of consent for Queensland, Northern Territory, Western Australia and South Australia is shown in the table below.



Mandatory reporting of sexual abuse

- Each state and territory has laws that require particular people to report suspected child sexual abuse to the authorities. This is called mandatory reporting of sexual abuse. People who are required to report knowledge or suspicions of sexual abuse under the law are called mandated reporters.
- If mandated reporters do not report their suspicion or knowledge of sexual abuse to the authorities they may be charged with an offence.
- To find out who is mandated to report child sexual abuse in your state or territory see the factsheet *Mandatory reporting of child sexual abuse and under-age sex*.

TABLE:

	Age of consent	Mandatory reporting
QLD	16	Reasonable grounds to suspect that a young person under 18 is at risk of suffering significant harm caused by sexual abuse
NT	16 (or 18 if the older person is in a position of power or authority over the younger person - e.g. teacher, youth worker, step parent, boss, religious leader, sports coach)	Reasonable grounds to suspect that that: <ul style="list-style-type: none"> - a child under 14 is engaged in sexual activities - A child of 14-15 is engaged in sexual activities with someone who is more than 2 years older - a young person of 16-17 who is under special care is engaged in sexual activities



WA	16 (or 18 if the older person is in a position of power or authority over the younger person - e.g. teacher youth worker, step parent, boss, religious leader, sports coach)	Reasonable grounds to suspect that a young person under 18 years is involved in sexual behaviour and: <ul style="list-style-type: none"> - is being bribed, coerced, threatened, exploited, or there is violence; or - has less power than another person involved; or - there is a significant difference developmentally, or in maturity, between the child and another person involved
SA	17 unless legally married (or 18 if the older person is in a position of power or authority over the younger person - e.g. teacher youth worker, step parent, boss, religious leader, sports coach etc.)	Reasonable grounds to suspect that a young person under 18 years is being or has been sexually abused

Further information and advice

For more information on the law in your state or territory, see:

- **Lawstuff** website for young people - click your state/territory, and select "sex", [here](#).
- **Australian Institute of Family Studies**, [here](#)

If you need legal advice or assistance, contact your local [Legal Aid](#) service.

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For more information about laws on reporting suspected sexual abuse and under-age sex, see our separate factsheet: ***Mandatory reporting of sexual abuse and under-age sex.***

For information about laws relating to sexting, see our separate factsheet: ***Sexting and the law.***

Disclaimer

The contents of this factsheet do not constitute legal advice, are not intended to be a substitute for legal advice and should not be relied upon as such.

You should seek legal advice or other professional advice in relation to any particular matters you may have.