



## CONSENT, AGE AND THE LAW

In NSW, the age of consent for sexual activity is 16 years. However, young people often express their sexuality earlier through behaviour with their peers as part of their normal sexual development.

The challenge for the law and those working with young people is to ensure young people are protected from sexual exploitation but not disempowered or criminalised for normal sexual exploration.

Distinguishing the behaviours that require a child protection or legal response, and those which represent healthy sexual development can be difficult.

Resources that can help include: child protection policies and procedures, mandatory reporting guidelines, and guides to understand, identify and respond to sexual behaviours in children and young people.

For more information on consent and the law, and sexual behaviours in children and young people, see the references below.

### Providing sexual health education

There are no restrictions on providing developmentally appropriate sexual health education to children and young people of any age.

Discussing sex does not encourage people to experiment sexually, nor does it lead to an increase in sexual activity. In fact, young people who receive comprehensive sexual health education often delay their first sexual experience and report higher levels of condom use.

### Providing condoms

People working in these organisations are permitted to distribute condoms for a public health purpose:

- The Ministry of Health
- A public health organisation
- State and local government agencies

People working or volunteering in non-government organisations can distribute condoms for these purposes if:

- Their work is on behalf of, or jointly with one of the agencies listed above
- The organisation is funded or part-funded by a public health organisation or the Ministry of Health.
- These restrictions are in line with Section 34 (1) of the *Poisons and Therapeutic Goods Act*.

### More information

**Health Adolescent Consensual Peer Sex – The Reporting Obligations of Health Workers**, NSW Health, 2011

**Age of Consent Resource Sheet**, Institute of Family Studies, Child Family Community Australia, [aifs.gov.au/cfca/publications/age-consent-laws](https://aifs.gov.au/cfca/publications/age-consent-laws)

**Age of consent: Issues for youth workers**, Shopfront Youth Legal Centre, [theshopfront.org/documents/age\\_of\\_consent\\_issues\\_for\\_youth\\_workers.pdf](https://theshopfront.org/documents/age_of_consent_issues_for_youth_workers.pdf)

**Mandatory Reporting Guide, Keep Them Safe**, [keepthemsafe.nsw.gov.au/reporting-concerns/mandatory-reporter-guide](https://keepthemsafe.nsw.gov.au/reporting-concerns/mandatory-reporter-guide)

**Guide to Sexual Behaviours in Children and Young People**, True Relationships and Reproductive Health, [true.org.au/ArticleDocuments/337/Traffic%20LightsBrochure.pdf.aspx?Embed=Y](https://true.org.au/ArticleDocuments/337/Traffic%20LightsBrochure.pdf.aspx?Embed=Y)

**“Sex and HIV Programs: Their Impact on Sexual Behaviors of Young People Throughout the World.”** Kirby D, *Journal of Adolescent Health* 40 (2007): 206-217.

For more information on providing condoms to young people at your service, see the condom protocol in the resource kit.