

SEXUAL HEALTH AND THE LAW

FOR UNDER 18s

FACT SHEET

Becoming sexually active is a big step. It is important that you understand your legal rights and responsibilities when it comes to sex so that you know where you stand. The law is there to protect you.

Consent

Consent means to agree to do something or to give/gain permission.

Consent must be given freely, without pressure, manipulation or coercion. Consent must be gained before sexual activity and be present throughout. Just because someone does not say 'no', it does not mean that consent has been given. Sexual activity without consent is rape (refer to the Legal Services Commission of SA).

The law deems that some people cannot give consent to sexual activity and this includes a person who:

- is under the age of 17
- is asleep or unconscious
- is so affected by drugs and/or alcohol that they are confused or unsure about what is happening
- cannot understand the nature of the act and is not able to freely agree to the sexual activity due to a mental, physical or intellectual condition
- has been manipulated, threatened or forced into sexual activity

Age of consent

In South Australia the legal age of consent is 17. When you are 17 years old you can legally have sex with another person who is 17 years old or older so long as you both agree to it. This is regardless of whether the person is same sex attracted or gender diverse.

When you are under 18, however, it is a serious criminal offence for someone who is caring for you, supervising you or has authority over you to have sex with you (for example, a teacher, sports coach, youth worker, counsellor, foster carer, religious instructor, health professional, police officer or employer). They can be charged, jailed and placed on the sex offender register.

Incest

No member of your immediate family is allowed to have sex with you. Immediate family means your parent, your grandparent, brother, sister, half-brother or half-sister. A person who has sex with a child or young person who is a member of their family has committed a serious crime, called incest and possibly also rape and sexual penetration of a child, and can be charged, jailed and placed on the sex offender register.

Sexual harassment

It is unlawful to sexually harass anyone. This includes any sexual action that makes a person feel uncomfortable, offended, humiliated or intimidated. For example, unwelcome sexual advances, staring, sexual jokes or questions.

Sexual assault

Sexual assault refers to a number of criminal offences including rape (sexual intercourse – oral, anal, vaginal penetration by any part of the body or object – without consent), indecent assault, unwanted sexual behaviour (e.g. touching or fondling) and child pornography. Committing a sexual assault is a breach of basic human rights. Committing sexual assault can lead to imprisonment and registration as a sexual offender.

Some of these laws are different interstate and in other countries.

Rape and sexual assault are crimes.

The person committing the offence is always 100% responsible.

The victim is never to blame.

Sexting

Sexting is the sending of provocative or sexual photos, messages or videos. They are generally sent using a mobile phone but can also include posting this type of material online. While sharing suggestive images or text messages may seem like innocent flirting or be considered funny, sexting can have serious social and legal consequences. Sexual photos, messages and images can last forever, damage relationships, hurt others, limit your career opportunities or result in criminal prosecution.

The law and pornography

The legal age in Australia at which it is permissible to purchase pornographic material is 18. Sending, showing, selling or giving pornography to someone under 18 is against the law. Child pornography is defined as a photo, video or other image that shows someone under 18 engaging in sexual activity or depicted in an indecent sexual manner or context (including nudity). This includes people who look as though they are under 18. This also includes animations and cartoons of people who appear to be under 18. It is against the law to ask for, make, send or have child pornography – even if it's just a picture of you or someone you know.

Further support and information

- SHINE SA
www.shinesa.org.au
- Yarrow Place (Rape and Sexual Assault Service)
www.sahealth.sa.gov.au
- Lawstuff
www.lawstuff.org.au
- Legal Services Commission
www.lsc.sa.gov.au
- Equal Opportunity Commission
www.eoc.sa.gov.au
- SA Police
www.police.sa.gov.au
- Australian Government Department of Human Services (Medicare)
www.humanservices.gov.au
- National Sexual Assault, Domestic Family Violence Counselling Service
www.1800respect.org.au
- Youth Healthline
1300 13 17 19

Your right to medical services

A young person 16 years or over can make their own decisions about their health care. They can:

- obtain contraception like the Pill
- have an abortion
- consent to medical treatment

If under 16 years, a parent/carer's permission is required or, when that is not possible, a second doctor's opinion. At SHINE SA and other health services including the Pregnancy Advisory Centre, there are two-doctor clinics for young people under 16 who do not have parent/carer permission.

As a client of a health service, you have rights. For example, when you go to a SHINE SA clinic, you'll be given a *Client Rights* pamphlet that explains your rights in seeking a service. You can ask for information on when confidentiality is or isn't guaranteed.

How to get a Medicare card

A young person 15 years or over can have their own Medicare card for seeing a doctor and getting medicine. To obtain a Medicare card of your own you will need to attend a Medicare office with identification and complete a Medicare Copy/Transfer Application Form.

It's a good idea to discuss this with a parent or carer if possible. If you apply for your own card, be aware that your name will be removed from your parent/carer's card when their card is renewed.

If you don't have your own Medicare card (and you're an Australian resident) then you would still have a Medicare number on your parent/carer's card. If you visit the doctor without this, the doctor can obtain your Medicare number from Medicare.

Note: Discuss with the doctor the option of bulk-billing, or else pay up-front, if you don't want an account posted out.

CONTACT
SHINE SA

SHINESA

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SHINE SA fact sheets are regularly reviewed and updated. To download the most recent version visit www.shinesa.org.au

Clinic & Counselling Appointments and General Enquiries

Tel 1300 794 584

Clinic locations and times are available at www.shinesa.org.au

Sexual Healthline

Tel 1300 883 793 **Country callers (toll free)** 1800 188 171

Talk to a sexual health nurse about any sexual health issue.

Available 9am – 12.30pm, Monday – Friday

National Relay Service

www.relayservice.gov.au

133 677 (TTY/Voice) 1300 555 727 (Speak & Listen) 0423 677 767 (SMS Relay)