

Age Of Consent:

Balancing the law and the sexuality of gay, lesbian & straight kids

gay & lesbian equality
human rights at risk: fact sheet



The issue:

The right balance between laws and youth

It's a fact that young people start to understand and experiment with their sexuality in their teenage years.

That's why the age of consent is set at a level where youths are able to give informed consent to sexual activity.

For decades, WA's law has recognised that youths are capable of such informed consent at the age of 16. This age is reasonable given similar

rights we grant to youths under 18 — we allow youths to drive at age 17 and leave school as young as 15.

The age of consent also realises and protects youths who sexually experiment with their peers while younger than 16.

Of course, no law can provide for the best safety net for experimenting youth — that's the role of parents.

The current laws:

A realistic legal framework to protect kids

Prior to 1989, sex between men was outlawed in Western Australia. In that year, an unequal age of consent of 21 was set for male-male sexual activity.

Not only were young gay men under 21 criminalised — but also the parents, friends and relatives of gay men under 21, who faced laws criminalising sexual acts on premises they own or occupy.

In 2001, a report to the Attorney-General found these laws stopped gay men accessing health information,

stigmatised young gay men, and led to increased depression and suicide.

In response, the Government changed the *Criminal Code* to equalise the age of consent for young gay men at 16. The 1989 law's words that WA did not condone homosexuality were deleted.

The *Criminal Code* still retains some exemptions that raise the age of consent to 18 — like when a youth aged 16 or 17 is under the care or supervision of another person.

The Liberal plan:

Liberals will criminalise young men again

The WA Liberal Party now wishes to fiddle with WA's realistic sex consent laws and again criminalise young gays.

The Liberal Party says they will raise the gay male age of consent back to 18 as they believe gay youth are unable to give informed consent to gay sex.

This is an unrealistic position based on anti-gay fears — assuming that young

men are able to give informed consent for only heterosexual sexual activity.

Also the Liberal Party's colleagues — the Nationals — have said moves to undo these laws are a "waste of time".

The rollback of age of consent laws by the WA Liberal Party will criminalise young gay men and lead again to social stigmatisation, self-harm and suicide.

The myths and facts:

Criminalising young gay men is wrong

Myth: Young gay men need more time to 'sort themselves out'.

Fact: Just as it is unbelievable to suggest heterosexuals can become gay, the idea that a young gay man needs more time to 'sort himself out' to see if he's really gay is illogical.

Myth: The age of consent for gay males at 16 will have men preying on boys.

Fact: The concept that gay men prey on teenage boys is an unfounded and highly offensive stereotype of gay men. The overwhelming majority of child

sexual predators are men who have heterosexual relationships with adults.

Myth: Gay men indoctrinate young men into homosexuality via sexual activity.

Fact: Sexual orientation is believed to be determined by both biological and environmental factors, but usually fixed early in life. You can't learn to be gay.

Myth: Having an age of consent for gay males at 16 hurts marriage and family.

Fact: Recriminalising sex for young gay men aged 16-18 will not bolster any straight families or marriages.

Talking points:

Speak up about unrealistic consent laws

Our young people need to have fair and equal age of consent laws to:

- stop the recriminalisation of young gay men where both men are between 16 and 18 years
- stop the recriminalisation of young gay men where one male turns 18 during a relationship
- stop the risk of increased suicide rates among gays that comes from an unequal ages of consent
- stop the recriminalising of young gay men's parents, friends or relatives where they allow their son to have sex at the premises which they own or occupy

What you can do:

Help keep fairness in WA law

There are a number of ways you can oppose the Liberal Party's plans to undo equality for gays, lesbians, single women and de facto straight couples.

You can write letters to newspapers, ask to meet your local Liberal MP or candidate, and tell friends and family

about the issues. You could also vote for a progressive political party like the ALP, Greens and Australian Democrats.

Every individual can make a difference. For more information on what you can do to keep age of consent laws, please visit our website at www.galewa.asn.au

More information:

About Gay and Lesbian Equality

Gay and Lesbian Equality is WA's peak gay and lesbian human rights body.

We also lobby to keep the human rights of others in related issues – like the reproductive rights of single women and relationship rights for de factos.

Our website at www.galewa.asn.au contains more fact sheets.

Topics include gay co-partner adoption, reproductive rights for single women and lesbians, and Family Court access to straight and gay de facto couples.