



FACTFILE

The age of sexual consent

What is the issue?

- At what age should it be lawful for children to have sex? Should there be a minimum age at which children can legally have sex at all?

Key points

- Sexual consent laws may be enacted with the aim of protecting young people from being sexually exploited by adults, and or from making poor decisions about sex.
- What constitutes 'poor' decision making, and when and how children become 'capable' of making autonomous decisions about issues such as sex, is open to debate.
- Adults tend to view children as innocent and vulnerable, with dangerous tendencies that must be harnessed. This usually means policies are protective rather than empowering
- Differential age of consent laws, for example for homosexuals and heterosexuals, are prohibited under article 2 of the Convention on the Rights of the Child, which prohibits discrimination in the application of Convention rights.
- Age of consent laws have little or no impact on the age at which children actually have sex
- What counts as 'sex' may differ from country to country
- A study in Canada, following an increase in the age of consent from 14 to 16, found no evidence to suggest that younger adolescents were at greater risk of exploitation than older teens – nor more likely to engage in unsafe sexual practices.¹
- Dr Matthew Waites, of the University of Glasgow, argues that: “The minimum age for sexual activity should be lowered to 14, but supplemented by an "age-span provision", whereby people aged 14 and 15 would only be able to have sexual activity with a person less than two years older, until 16.” (see link below)

Key quotes

- “The law simply stigmatises much of what many teenagers regard as normal behaviour, and fosters a climate of denial among parents and some professionals, which prevents some teenagers from seeking information and assistance.” Dr Matthew Waites².
- "If the age [of consent] limit is set too high the law easily can come into conflict with the need of adolescents to sexual liberty and it could easily turn from a means of protection to a threat itself for the sexual self-determination of juveniles. So legislators have to find a reasonable and fair balance between the need of adolescents to protection from unwanted sex and their equally needed freedom to engage into self-determined sexual relationships." Dr Helmut Graupner³.

1 Bonnie B. Miller, David N. Cox1, and Elizabeth M. Saewyc, (2010) 'Age of sexual consent law in Canada: Population-based evidence for law and policy' *The Canadian Journal of Human Sexuality*, Vol. 19 (3)

2 Dr. Matthew Waites, The Independent Newspaper interview, <http://www.independent.co.uk/news/education/higher/against-the-grain-the-law-doesnt-stop-under-16s-having-sex-436351.html>

3 Dr Helmut Graupner, Keynote-Lecture at the 7th International Conference of the International Association for the Treatment of Sexual Offenders (IATSO) (Vienna, September 11th – 14th 2002)

