

Children

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A child diagnosed with an STI raises the possibility of sexual abuse. Specialist (paediatric or sexual health) services should be involved because of the need for rigorous clinical and laboratory assessment and the medico-legal implications. There are a range of factors that should be considered in determining whether a child has been sexually abused including the age of the child, the age of their sexual partner, the maturity of the child and their views on their sexual activity, the circumstances surrounding the sexual activity including any perceived or actual power differential between the child and their sexual partner and whether or not the child has any condition that may impair their capacity.

The legal age for consensual sex varies between 16 (ACT, NSW, NT, Qld, Vic and WA) and 17 (SA and Tas) across the different states and territories of Australia. Certain states and territories provide for a legal defence when both parties are under the age of consent and/or are of a similar age [1] In certain jurisdictions, it is also an offence for a person in a supervisory role to have sexual interactions with a person under their 'special care' (e.g. teachers) aged 16 or 17 years old irrespective of consent [2]

Mandatory reporting laws in all Australian states and territories apply to a range of healthcare workers under child protection legislation. The circumstances which require the mandatory reporting of sexual abuse of children under child protection legislation vary slightly between each state and territory. For example, in New South Wales a person who suspects on reasonable grounds that a child under the age of 16 is at risk of significant harm, and those grounds for suspicions arose during the course of that person's work, is subject to mandatory reporting [3] In the Northern Territory, any person who believes on reasonable grounds that a child under the age of 18 has suffered or is likely to suffer harm or exploitation including sexual abuse is subject to mandatory reporting. [4] It is important to note that a lack of legal capacity to consent to sex may not necessarily amount to sexual abuse under child protection mandatory reporting laws. If you are unsure whether mandatory reporting is required, you should seek further advice. For more information see: <https://aifs.gov.au/cfca/publications/mandatory-reporting-child-abuse-and-neglect>.

Other mandatory reporting requirements co-exist under other legislation, such as criminal law, in certain states and territories (NSW, Vic, QLD, ACT, NT) and have different criteria that require reporting to police. In all these jurisdictions, if you have already reported to the relevant authority under child protection legislation, you are not required to also report to police under criminal law.

Another relevant consideration when a child is diagnosed with an STI is the child's right to privacy. Generally, young people under 18 have the right to exercise their own privacy choices when they are able to understand and make their own decisions.

[1] ACT, NSW, SA, TAS, VIC, WA

[2] ACT, NSW, NT, SA, VIC, WA

[3] *Children and Young Persons (Care and Protection) Act 1998* (NSW) s27

[4] *Care and Protection of Children Act 2007* (NT) s26

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