

POSITION PAPER

Age of Consent in Australia



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About the Authors

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Carol is a member of the Australian and New Zealand Society of Criminology, the International Society for the Prevention of Child Abuse and Neglect, and the Child Protection Practitioners Association of Queensland. She sits on the Federal e-Safety Commissioner's Online Safety Consultative Working Group, the Queensland Victim Services Interagency Organisation Network, the Queensland Child Protection Advocates Group and Twitter's Trust and Safety Council.

In January 2017, Carol accepted a 3 year position as a Visiting Fellow in the School of Justice, Faculty of Law, at Queensland University of Technology.

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About Bravehearts

Bravehearts has been actively contributing to the provision of child sexual assault services throughout Australia since 1997. As the first and largest registered charity specifically and holistically dedicated to addressing this issue in Australia, Bravehearts exists to protect Australian children against sexual harm.

Our Mission

To prevent child sexual assault in our society.

Our Vision

To make Australia the safest place in the world to raise a child.

Our Guiding Principles

To, at all times, tenaciously pursue our Mission without fear, favour or compromise and to continually ensure that the best interests, human rights and protection of the child are placed before all other considerations.

Our Guiding Values

To at all times, do all things to serve our Mission with uncompromising integrity, respect, energy and empathy ensuring fairness, justice, and hope for all children and those who protect them.

The 3 Piers to Prevention

The work of Bravehearts is based on *3 Piers to Prevention: Educate, Empower, Protect* - Solid Foundations to Make Australia the safest place in the world to raise a child. The 3 Piers are:

Educate Education for children and young people

Empower Specialist counselling and support

Training for adults, professionals, business and community

Risk Management 'ChildPlace Health & Safety' Services

Community engagement and awareness

Protect Lobbying & Legislative Reform

Research

Abstract

Prior to the completion of this Position Paper, media stories circulated reporting Bravehearts' advocating for changes to current age of consent laws. Many of these reports stated that Bravehearts was pushing to make 'teenage dating' illegal or that we were proposing to stop teenagers from dating or developing relationships.

From the outset Bravehearts would like to state that our Position is not about stopping teenagers from dating or from having sex.

Our position is simply that as a Nation we need to assure that legislation is in place that is consistent and enforceable, in order to more effectively protect young people from predators who target the vulnerable and who will exploit the power imbalance between adults and children.

While we recognise the varying maturity levels among young people, it is our position that the current legislation in relation to young people and sex is not working and is in fact placing vulnerable young people at substantial risk. Inconsistent and ill-defined State and Territory legislation is not being enforced and is only adding to the risk of young people being exploited.

We believe that legislation needs to be consistent across States and Territories, it needs to include clear definitions and procedures for enforcement and it needs to make a stand against those who prey on children.

In recognition of the feedback we received, we have reconsidered the age gap we are proposing should be in place as part of our push for age discrepancy laws. Initially, as an agency we discussed and put forward that the age discrepancy should be set at five years, however, considering the comments we have received and the stories people have shared with us, we are putting forward an age gap of 10 years (see Introduction below).

A selection of community feedback provided in response to the media attention to Bravehearts' proposed legislative change has been included in this Position Paper (see Appendix A).

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Introduction

Child sexual assault is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violate the laws or social taboos of society. Child sexual assault is evidenced by an activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include but is not limited to the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other unlawful sexual practices; and the exploitative use of children in pornographic performances and materials.

When an adult uses force or threats of force to bring about the child's compliance in sexual activities there is little doubt that consent is not given. Confusion arises when there is no obvious coercion and the question turns to one of ability to consent. This issue is particularly relevant when the victim is an older child or adolescent.

This Position Paper argues that there is a fundamental power imbalance between children and adults and therefore sex between children, that is an individual under the age of 18 (as defined by Australian legislation), and an adult (an individual 18 years and over) should be subject to criminal sanctions.

In recognition that this same power imbalance does not exist between peers, it is put forward that sex between children aged 16 and 17, must be conditional on an age discrepancy law, where the age difference between the youngest person (16) and the oldest person must not be greater than 10 years.

Bravehearts advocates that there is a nationally consistent open age of consent set at 18.

In addition Bravehearts advocates that there is a nationally consistent condition age of consent, with a recognition that children aged 16 and 17 may consent to sex where the older person is not more than 10 years older.

This legislation should include provisions that prohibit adults with 'special care' of a young person (such as teachers, carers, coaches and step-parents) from having sex with that young person if they are under the age of 18 years.



The Status of Age of Consent in Australia

NOTE: Appendix B for a full description of Australian age of consent laws, including age restrictions for other activities.

The laws surrounding the age of consent to have sex vary between states and territories in Australia. In some states the age of consent is 16 years for sex, in others it is 17. In Queensland, the age of consent is stated as 16, unless it is anal sex (regardless of the sex of the partner) in which case the age of consent is 18.

In most states and territories there is a provision that prohibits adults with “special care” of a young person (such as teachers and step-parents) from having sex with that young person if they are under the age of 18 years. Research into consent laws, could not find this provision in the ACT, Queensland or Tasmania.

In ACT and Victoria, sex between consenting individuals of any sex is allowed between the age of 10 and 16 provided there is less than 2 years age difference. A similar law in Tasmania outlines that sex between consenting individuals of any sex is allowed between the ages of 12 and 14 if the older person is not more than 3 years older and between the ages of 15 and 17 provided there is less than 5 years age difference.

How well do these laws reflect our current understanding of adolescent sexuality? The law in these latter States appears to come closest to reflecting the absolute normality of adolescent sexuality, with the age difference provision a reasonable safety check for preventing abuse and exploitation.

Consent and child sexual assault

An age of consent is designed to protect young and innocent children from physical and psychological harm caused by engaging in sexual intercourse before he or she is psychologically mature enough to consent to such activity. Consent in this context refers to full, informed consent, where the person is aware of the consequences of giving that consent.

The key argument on which the proposal around which this Position Paper is centred, is that children are incapable of “informed” consent in relation to sex with adults because they are children.

For ‘informed’ consent to occur, two conditions must be present:

1. The individual must know what he or she is consenting to, and
2. The individual must be free to say yes or no.

For example, for a subject to give informed consent to participate in a study, the researcher must give him a complete description of the procedures and anticipate in detail possible dangers. The subject must not only understand this information, but also have true freedom to choose to participate or not.

Can children fulfil these conditions in relation to sex with adults?

It is fairly evident that they cannot. For one thing, children lack the information necessary to make an ‘educated’ decision about the matter. Even though they may know they like the adults and the physical sensation, they are mostly uninformed about sex and sexual relationships. It is not only that they may be unfamiliar with the mechanics of sex and reproduction. More important, they are generally unaware of the social meanings of sexuality. For example, they are unlikely to be aware of the rules and regulations surrounding sexual intimacy - what it is supposed to signify. They are uninformed and inexperienced about what criteria to use in judging the acceptability of a sexual partner. They do not know much about the ‘natural history’ of a sexual relationship - what course it will take. And finally, children have little way of knowing how other people are likely to react to the experience they are about to undertake - what likely consequences it will have for them in the future.

Furthermore, the child does not have true freedom to say yes or no in a legal or psychological sense. In a more important psychological sense, children have a hard time saying "no" to adults, the child often has no freedom in which to consider the choice. This lack of freedom is especially true when the adult is a parent or a relative or another important figure in the child's life, as is so often the case.

Adults can intellectually coerce, convince and confuse children and young people. Most of what we see as ‘consensual’ behaviour on the part of children is a response to the powerful incentives and authority that adults hold.

Power and child sexual assault

In addition to consent, it's the imbalance in power that comes with age difference that is often critical and can distinguish childhood exploration from sexual exploitation.

Children are “psychologically unprepared” to respond to the innate power imbalance between themselves and adults.

That power imbalance is used to coerce and/or force participation in or overcome resistance to sexual activity, and subsequently used to coerce or force silence and inaction by the victim of the sexual assault.

Where there is a greater age discrepancy between a young person (who lacks this knowledge and experience) and an adult, that adult undeniably takes on a “provider” role. This “provider-factor” may take the form of providing for emotional, psychological or physical needs, or providing for access to age-restricted commodities (such as alcohol and cigarettes). The authority that comes with this “provider-factor” compounds the fundamental imbalance of power between the child/young person and the adult.

Adults have more knowledge and access to knowledge, which is built through age and experience. This knowledge and the position of authority occupied by the adult enables them to confuse the child, by both assuring the child that the sexual conduct is not wrongful, and/or threatening the child with terrible consequences if he or she discloses the activity.

The crucial difference in adult-child sex is the combination of the child’s lack of knowledge and lack of power. With peers, there is no inherent power difference. Any imbalance in power between peers is offset by the fact that peers are mostly equivalent in terms of knowledge and experience.

The Age of Majority

The law traditionally relies upon the age of majority as a dividing line between complete competency to make decisions, and incompetency (decision making is in someone else's power). Over the past couple of decades the concept of variable competence has been introduced, so that a child who has not reached majority may under certain circumstances make decisions regarding his or her life. The concept assumes that the child has a conscious mind, can accurately perceive the world and his or her place in it and that the child has enough intelligence and experience to determine what is in his or her best interests.

The age of majority implies that by a certain age any individual has acquired the intelligence, reasoning, ability to perceive and experience life to make decisions in his or her best interests. The concept of variable consent implies that under certain conditions a child might, if he or she has already achieved the necessary be able to give consent prior to reaching the age of majority.

In Australia the age of majority has long been accepted as 18 years of age. This is the age where we consider young people to be “psychologically prepared” to make important decisions affecting both themselves and others.

It is not until the age of 18 that young people are considered capable enough to vote. It is not until the age of 18 that young people are considered mature enough to drink alcohol. It is not until the age of 18 that young people are considered mature enough to smoke cigarettes.

Those under the age of 18 exercise very little autonomy - most of them are still at school, they are not permitted to vote, buy tobacco products or alcohol, join the armed forces or change their name. The reason we have these laws is because our society rightly recognises that children are vulnerable and need protection. Young people under the age of 18 are vulnerable to sexual predators as at this age they are still growing and developing into adult maturity, both physically and psychologically.

Having the age of consent set below the age of majority (18) takes away the onus of responsibility on adults to act with integrity toward young people. Both children and young people under the age of majority must be afforded protection under Australian law – both morally and legally. The protection of children from sexual predators should surely be at the forefront of our concerns.

Bravehearts' Position

In considering changes to the current age of consent legislation in Australia, the factors discussed above were taken into consideration. In summary:

- The age of majority is 18.
- There are inherent power imbalances between children, young people and adults.
- Children and young people are (mostly) unable to give “informed” consent.

In addition:

- In respect to child sexual assault, the offender can be anywhere from the same age to a few years, to many years older than the victim, where the motivation is clearly predatory.
- That there are no inherent power imbalances between peers, and that any imbalance in power is offset by the fact that peers are mostly equivalent in terms of knowledge and experience.
- Statistics show that adolescents are greatly over represented as victims of sexual offences (eg. Queensland Police statistics for 2004/2005 show that 30% of sexual assault victims are aged between 10 and 14, followed by 23% aged between 15 and 19).

Legislation must be put into place that is consistent, clear and workable. In order to be effective, there must be clear boundaries and procedures for responding to disclosures and allegations (see Section 8. Enforcement).

In line with this:

Bravehearts advocates that there is a nationally consistent open age of consent set at 18.

In addition Bravehearts advocates that there is a nationally consistent condition age of consent, with a recognition that children aged 16 and 17 may consent to sex where the older person is not more than 10 years older.

This legislation should include provisions that prohibit adults with ‘special care’ of a young person (such as teachers, carers, coaches and step-parents) from having sex with that young person if they are under the age of 18 years.

Enforcement

The enforcement practices of age of consent laws tend to vary depending on the social sensibilities of the particular culture. Often enforcement is not exercised to the letter of the law, with legal action being taken only when a sufficiently socially-unacceptable age gap exists between the two individuals (enforcement is more likely in the case of a larger age gap), or if the perpetrator is in a position of authority over the minor (e.g. a teacher, priest or doctor). The sex of each participant also influences perceptions of an individual's guilt and therefore enforcement.

Difficulties are also present where the young person does not report that sexual activity has occurred. It is a common experience that a young person (typically from 14-16) will leave home to reside with an older person. Although in some States, such as Queensland, where either the police or an authorised officer from the Department of Child Safety may bring an application for a child protection order for a child, where a parent complains that a child under 17 years has left home, investigations into such concerns are rarely made.

Legislation must be put into place that will protect our children and young people. This legislation must include clear guidelines and procedures for responding to disclosures or allegations.

Enforcement where there is evidence of a sexual relationship

Bravehearts advocates that there be sanctions for adults who have sex with a young person under the age of 18. As with current legislation in most States and Territories (see Appendix A), the defence that there was a belief that the young person was of age of consent should stand, where the young person was actually 15-17 years.

Enforcement where there is no evidence of a sexual relationship

Where there is evidence that there is clearly a relationship between a young person and an adult, but a sexual relationship is denied by both parties, an authorised officer must investigate the appropriateness of the relationship and whether there are any possible risks to the young person.

Appendix A: Community Feedback

During the compilation of this Position Paper, media attention on Bravehearts' proposal resulted in a number of individuals sharing their experiences with Bravehearts. While the majority of e-mails and phone calls we have received on this issue were supportive of the proposed change, and we received many stories from concerned parents, we have selected a few e-mails to include in this paper, from both sides of the debate.

We would like to take this opportunity to thank the many individuals, families and couples who trusted Bravehearts with their personal stories.

Stories/Experiences supporting a review of current legislation

(Names and places have been omitted to assure anonymity and confidentiality).

----- Original Message -----

From:

To: <admin@bravehearts.org.au>

Sent: Monday, April 10, 2006 12:54 PM

Subject: Discussion paper - girls up to 16 and boyfriends

Good afternoon

I have seen a report that your organisation is preparing a discussion paper for the Federal and State Governments to stop girls up to 16 years of age having boyfriends who are more than five years older.

I have a direct interest in this as about 5 years ago, my Daughter ran away from home at 14 with an 18 year old, subsequently became pregnant and was abandoned by the fellow. We ran into brick wall after brick wall in trying to seek assistance about this. The Police would do nothing, because at the time our Daughter refused to make a statement against the fellow and the Department of Families said they could do nothing because the fellow was not covered by the child protection legislation, because he wasn't a "parent or guardian".

So even though our Daughter's welfare was at serious risk and she was clearly being subjected to "harm" authorities claimed there was nothing they could do.

Could a solution be an addition to child protection legislation where children, including 14 to 16 year olds, who leave home and are living with/under the influence of adults (18 years plus), then the adult in question is subject to the same provisions in the child protection legislation as parents / guardians and action can be taken to assess the harm to the child and where harm or potential harm is substantiated, then there is provision for a court order against the adult regarding contact with the child.

I wish you well in your endeavours. I am happy for you to contact me via email or telephone ()

()

----- Original Message -----

From:

To: admin@bravehearts.org.au

Sent: Monday, April 10, 2006 11:48 AM

Subject: Cap on teen lovers.....Thankyou!

Bravehearts,

The proposal that your organisation is putting forward to the government re: 'Cap on teen lovers' is a very important and positive step to protecting the vulnerable and easily influenced adolescents, we can only hope this ideology also influences T.V shows that target this audience and are seem to promote allot of unacceptable relationships. I have no doubt that many parents across Australia will support your action.

Thankyou, () Family

-----Original Message-----

From:

Sent: Tuesday, 11 April 2006 11:30 AM

To: 'advocacy@bravehearts.org.au'

Subject: URGENT: ADOLESCENT SAFETY ISSUE

Importance: High

Dear Hetty & Carol,

We write to you searching for assistance in dealing with the most troublesome situation our family finds itself in. A 16 year old daughter of ours went to a local youth outreach centre () in () as part of the schools community service program.

The 16 year old girl ended up not coming home and the following took place;

- The youth co-ordinator at () came to the girl school to pick her up. According to files derived by the (), the youth co-ordinator felt "obliged" to take her home even though () refused to go to a refuge. (We can fax you over a copy of the file - Please advise of your fax number). There are also records on the file stating "In consultation with the School Principal, the youth co-ordinator was obliged to take her home with her". The Principal of the school has stated that "this is not true". The principal has since contacted the Ombudsman and registered her concerns for the girls safety, her current state of mind and her concern over the "advice" employees at () are providing her.
- She stayed in the home of the female youth co-ordinator (who is unqualified) for approximately 2 nights even though the youth outreach centre is NOT an accommodation service provider.
- She was then left at the home of a 22 year old male administration worker at (). The parents of the girl were not informed of this. They are now intimate as stated by the male workers Mother & () friends. The Mother of the 22 year old male has advised the family that her son has a history of drug abuse, was seeing a psychiatrist throughout his childhood and is abusive toward his Mother. Why is someone with this profile left to work with young impressionable teenagers at this youth outreach centre? He has also taken the girl to premises which serves and sells alcohol even though she is underage. He smokes excessively around the girl who has now also smokes.
- There are conflicting stories of what protocol was followed. Firstly, the female worker said to the man's Mother that she was only staying for 2 nights. The female youth co-ordinator never came to pick her up. Secondly, the man involved said his Mother invited the 16 year old girl to stay. The Mother has denied this and said that she understood that the youth co-ordinator was coming to collect her after 2 nights. Thirdly, a member of the Management Committee at () said "the Mother is a sick and unwell woman". If this is so, then why was she left with the Mother? The female youth Co-ordinator at () said that she has followed all the correct steps in line with the Police and DOCS. However, as the girl is now 17 (Birthday was XX), it is not a DOCS or Police issue. However, DOCS is a funder of (). The Minister (Reba Meagher) did NOT respond to any of the letters/questions the family has sent to her dated on the November 10, 2005 and November 24, 2005 until recently. This letter which arrived last month admits that DOCS at () will need to work with () to develop procedures/protocols of how employees interact with young people and what the boundaries are.

However, they are saying "oops" when it comes to the case above & not admitting it is their issue even though they fund ()...

... We are deeply concerned about the mental health and safety of (). She is now living with the young 22 year old male. We are concerned that the so called "advice" she is being supplied with by unqualified parties at () are pulling her in the opposite direction to the principles, guidelines and loving advice that she agrees to with her parents when she is in their company. We believe that she is being lead-astray despite her teenage urges.

() is also now ridiculing the Christian values that she has grown up with largely due to her sharing these values with the 22 year old male worker who has showed that he clearly disagrees with and believes it's alright to take young girls into his own home who are aged 16. His Mother has reported that he has done this to other girls on 2 previous occasions.

I think the work you are both doing is fantastic - I fully support you and appreciate the extra action & commitment you have put towards this which so many other families would like to do. Please advise if there is any way I can be of assistance. It would be a pleasure to talk to you. Please call me when you have a moment.

Yours Faithfully,
()

----- Original Message -----

From:

To: <admin@bravehearts.org.au>

Sent: Tuesday, April 11, 2006 10:27 AM

Subject: 'legal paedophilia'/ACA article 10.04.06

Dear Bravehearts,

Re: Channel 9 A Current Affair news article Monday 10 April, 2006

I wholly support your stance for laws against 'legal pedophilia': whereby pedophiles are not legally culpable when they have sex with 16 and 17 year olds (my terminologies and paraphrases).

I believe there is a case that pedophiles rape persons 16 years old and over because statutory rape does not exist in this case. I believe that seasoned sex-offenders then know that if they can cover their tracks for sexual assault (and seasoned rapists know the law and rules of evidence), they can then get away with it.

I was raped in 1986 when I was a very young looking and very naïve 16-year-old virgin by a 28-year-old man called Darren. I have no doubt that he was a very skilled and seasoned sex offender as he washed my vagina out with a dirty bar of laundry soap afterwards, an act I realized only recently was proof that he was a rapist as it was a conscious tactic to remove evidence, something he had probably learned in jail or in courtrooms or in pedophile rings.

Having laws where I could prove statutory rape in this circumstance, rather than have to prove prove lack of consent, would be a great help.

()

----- Original Message -----

From:

To: admin@bravehearts.org.au; westernaustralia@bravehearts.org.au

Sent: Tuesday, April 11, 2006 10:24 AM

Subject: spam: Web site enquiry

I read about your push to make it illegal for teenagers under 18 to go out with people five or more years older than them.

I sincerely wish you the best of luck in getting this off the ground.

However, I am extremely pessimistic about any legal body's ability to enforce such legislation.

My daughter, at age 15 became pregnant to her 30 year old "boyfriend", despite our pleas with welfare and police to act, she remains unprotected today, has a baby boy, is barely 16, and, because she doesn't want to

make a complaint against him, he not only walks free, but gloats of his “catch” (my daughter) - promising her marriage, puppies, kittens, anything she wants. He even has her acting as “step Mum” to his 3 year old son (whoever in their right mind gives custody of a child to such a pervert?) from his previous encounter with a teenage girl. And she’s still too young to realise how she’s being taken advantage of – and we sit and watch, knowing that if we act, she hates us forever. We support her in every way we can (except that we make it clear we cannot stand his illegal, immoral actions), in the hope that one day she’ll see the light, leave this monster, and get on with her fragmented little life.

We need more than laws to be changed. We need social attitude to change, and we need the police and welfare bodies enabled to act.

I’m so glad that there are organisations like yours acting on behalf of our children

Why don’t welfare and police refer parents such as myself to organisations such as yourselves? It was from a newspaper article that I found out about you, despite over 18 months of fighting this injustice.

GOOD LUCK – PUSH HARD – PROTECT OUR CHILDREN & ENPOWER OUR POLICE!!

() (Frustrated, concerned parent)

----- Original Message -----

From:

To: Hetty Johnston (Hetty Johnston)

Sent: Tuesday, April 11, 2006 8:19 AM

Subject: Your view

Dear Hetty,

It’s been a while hope your well and your obviously still true to children some great work over the past couple of years.

As I was driving into work this morning listening to the radio as one does the announcers were discussing the ages of young people and their possible associations etc. As most people do, they have opinions and I would like to share mine with you.

If I was to inform you that the carnal knowledge laws in this state are a joke would you agree. The industry I work in and have done so now for more than 20 years tells me that the law could not give a shit about young girls in relationships with 20 yr old plus men. The police response following interview/s is often well it appears to be a consenting relationship, no-one is willing to make a complaint and the parent does not appear overly concerned. Child safety’s response, is there are no protective concerns.

Bearing in mind the relationship started when the young girl was 12 and the young man 18, now 14 and 20, serious domestic violence in every aspect. What does this say to you? This is but one case of blatant abuse as far as I am concerned and what is that your group can do to ensure that police enforce the carnal knowledge laws, I mean seriously why have a law if it is not enforceable either enforce or get rid of it is a joke.

Secondly – what rights does a child have to be protected? The legislation covers abuse perpetrated by parents, guardians and carers but the rest of the population it seems have right of way. Why cannot the relevant authorities protect children already removed from their family’s and placed in the care of the authorities from harms form a third party – why should they be subjected to verbal and intent to harm physically form say a neighbour?

I find the above interesting why have laws and requirements in this state if they are not enforceable?

Thanks for listening

()

----- Original Message -----

From:

To: admin@bravehearts.org.au

Sent: Wednesday, April 12, 2006 9:45 AM

Subject: Bravehearts

I have a daughter who has run off with a 29 year old male, my daughter has only just turned 16 (January this year), there is basically nothing that I can do, I cant stop her from going and the guy wants her to be with him, if he had told her he didn't want her she wouldn't have taken off, she is now living with him in (), so far it has not reached a sexual nature but I'm sure that wont be for very long.

I am very upset about this as there is no one I can turn to for help, I have begged and pleaded with my daughter and her male friend but they want to be together and are now, my hands are tied there is nothing I can do. My daughter started year 11 this year a very critical year in her life and this has to happen, she has dropped everything, her family, friends and parents to go live with this person. I feel frustrated and upset that I cannot make my own daughter stay at home with me until she is 18, I am after all her mother, children seem to have more rights than anyone else, I am helpless to know what I can do about it, as I see it I cant do anything at all as she has left home of her own will. I am very upset with this man for stealing my daughter away from me; I think of him as a paedophile and am very bitter and angry about the situation. Is there anything that can be done or is it a lost cause.

Thanks & Regards

()

----- Original Message -----

From:

To: "Hetty Johnston" <admin@bravehearts.org.au>

Sent: Wednesday, April 12, 2006 1:27 PM

Subject: Re changes to Age of Consent

Hi Folks

Heard about your wanting to lobby govts to change to age of consent. I'm with you on this one. It should have always been the case, as all other adult things require that you be 18 or older.

My daughter lives with a 22yr old man and she is 16, he hit on my daughter when she was just 13, tried DOCS, police and couldn't get anything done about him because my daughter and the boyfriend told lies about me seeing them have sex, so it was two against one and it wouldn't stand up in court. Some law they have that can't be enforced. My daughter had an abortion at 15 (I am not supposed to know of this but I do). I know that years down the track she will have emotional and psychological issues to deal with long after the boyfriend and her have split, she thinks he's forever,

I thought her father was too but I wasn't 13 when I met him. I know what men do to women and the damage they cause. As regards a law to make it illegal to be in a relationship with someone who is more than 5 years older that is a good idea too, that means my daughter falls into that category, she is 16 and he is 22, he has power and control over my daughter and they are always fighting, I have spoken to her about this, she just doesn't seem to want to get the message. Her peers have said that her relationship with this boyfriend is no good, but still she doesn't want to listen. I suppose she has to wake up and learn sometime down the track when all the damage has been done.

Good on you for trying to protect silly young girls from predators. I think kids will do what they want no matter what adults have to say, they have to learn the hard way just like my daughter is.

()

Stories/Experiences against changing legislation

(Names have been omitted to ensure anonymity and confidentiality).

----- Original Message -----

From:

To: admin@bravehearts.org.au

Sent: Monday, April 10, 2006 2:50 PM

Subject: Bravhearts

Dear friends at Bravehearts; I read with interest a new story this afternoon urging governments to make it illegal for people under 18 to date anyone more than five years older. My partner and I have been together 38 years and married for 32; we have 4 children and 2 grandchildren; she was sixteen and I was 22 when we first took up together. We both came from unhappy homes. () was raped at 12 and received no support from her parents and was experiencing abuse from her peers when we met; Our early years were not easy and I nearly went to jail as the age of consent in Adelaide was 16. We are still deeply in love and the reason I am sending this to you is to remind people that formulas are not always the best method of protecting people and can in fact create there own injustices. Having said that, keep up the good work.

Sincerely,

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----- Original Message -----

From:

To: <admin@bravehearts.org.au>

Sent: Tuesday, April 11, 2006 12:16 PM

Subject: SPAM-LOW: Today/tonight

I saw your segment on last night's program and was shocked that such a RADICAL group not only exists but can get air time on prime time TV. You take the attitude that any male dating a 17 or 18 year old who is 5 years or more older than them, is a sexual predator and should be jailed!

Well that means that if you existed 38 years ago I would NEVER have married my wife and would have been tossed in jail as a paedophile! I was 23 when I asked out my, now wife, who was 17. We have been married for 38 years and have 2 boys 33 and 30. They, also, think you are a pack of misguided morons who are grabbing their '5 minutes of fame' to push a stupid and ill thought out doctrine.

To want to label ALL men, who did what I did, as sexual predators is absolute rubbish and is a slur on the male gender in general, Sure there ARE those out there who would try to take advantage of younger girls but to label ALL of us as predators is misguided foolish, and another form of extremeism.

YOU are the dangerous ones here, not EVERY male like myself who asked out a 17 or 18yo. That you can get prime time airing to push your radical, extremest views is a sad indictment of the low levels Current Affairs TV shows will go to to try to garner viewers. They are appealing to the lowest common denominator and using radicals like yourselves to achieve just that.

You BOTH should be ashamed of yourselves. You take the feminist movement, in my opinion, to a new low.

Grow up and get a life or, at least, try and do something REALLY worthwhile with your spare time, but DON'T come after people like me with your stupid views. They deserve to be heard at a different time like during the witches of Salem trials!

()...62 years old.

----- Original Message -----

From:

To: <admin@bravehearts.org.au>

Sent: Tuesday, April 11, 2006 5:42 PM

Subject: SPAM-LOW: Age Limit on Teenage Relationships

TO WHOM IT MAY CONCERN

I have recently read the article on the News.com website regarding the proposed age limit on teenage relationships.

I am outraged by comments made by your founder Hetty Johnston.

I am a 32-year old mother of two. The father of my two children is 46 years old! We met when I was 16 and started dating when I was 17. We have since separated but let me assure you, the separation was nothing to do with age difference or how he did or didn't treat me. He was nothing but understanding of the age difference. I was never forced into anything nor punished for refusing. Aside from the separation, there is not one day of our 13 1/2 year relationship that I regret and we have two beautiful children. There are so many facets of life I never would have discovered had I not met him. We saw friends who were my age meet, marry and get divorced and still we remained solid. I would do it again.

I take particular offence to the comment about the motivation of the older male. How dare Ms Johnston make assumptions of people she has never met. She does not know my ex-partner, nor did she have any knowledge of our relationship so how can she say that his motivation was "predatory"!! His motivation was love, as was mine. Further, how dare she proclaim to know the minds of teenagers. I was fully aware of what I was doing and my mother trusted my judgement. My mother fully supported our relationship.

Also, the assumption that a relationship is purely based on sex. It is possible for two people to have a relationship where sex is not the ultimate goal. Sex is definitely part of the equation but not /always/the only reason for being together.

In conclusion, I think your proposal is an absolute invasion of rights and privacy and I would suggest that relationships be looked at on a case-by-case basis. DO NOT make blanket statements about all men and judge those who have had success.

yours faithfully

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Appendix B: Current Age of Consent Laws in Australia

Age of Consent (Source: National Children's and Youth Law Centre, *Law Stuff*. Available: www.lawstuff.org.au [On Line]. April 2006)

| <i>State</i> | <u>Age of Consent</u> | <u>Age Discrep Laws</u> | <u>Special Laws</u> | <u>Defences</u> | <u>Age of Majority</u> | <u>Smoking</u> | <u>Drinking</u> | <u>Voting</u> | <u>Tattoo</u> | <u>Piercing</u> | <i>Marriage</i> | <u>Passport</u> |
|--------------|-----------------------|--|---|--|-------------------------------|---|-----------------|---------------|---------------|-----------------|---------------------------------------|--|
| ACT | 16 | Between 10 and 16 legally have consensual sex with someone not more than 2 years older | - | If over 18 and believed on reasonable grounds they were 16 or over | 18 (Age of Majority Act 1974) | No age limit for smoking; 18: can buy cigarettes | 18 | 18 | 18 | ? | 18 (16 & 17 with parents' permission) | Any age – under 18 need to meet conditions (eg. parent permission etc) |
| NSW | 16 | None | Under 18, illegal to have sex with "special carer" (eg. | - | 18 | No age limit for smoking; 18: can buy cigarettes | 18 | 18 | 18 | ? | 18 (16 & 17 with parents' permission) | Any age – under 18 need to meet conditions (eg. parent |

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|------------|----|---------------------------------|--|---|--|---|----|----|--------------------|----------------------------|---------------------------------------|--|
| | | | teacher, coach etc) | | | | | | | | | permission etc) |
| NT | 16 | None | Under 18, illegal to have sex with “special carer” (eg. teacher, coach etc) | If 14 or 15 – defence if person believed they were 16 | 18 (Age of Majority Act) | No age limit for smoking; 18: can buy cigarettes | 18 | 18 | No age restriction | ? | 18 (16 & 17 with parents’ permission) | Any age – under 18 need to meet conditions (eg. parent permission etc) |
| <i>Qld</i> | 16 | None | Anal intercourse age of consent: 18 plus. | If 12-15 – consent a defence if can prove believed child was 16 | 18 | No age limit for smoking; 18: can buy cigarettes | 18 | 18 | 18 | 18 for intimate body parts | 18 (16 & 17 with parents’ permission) | Any age – under 18 need to meet conditions (eg. parent permission etc) |
| SA | 17 | Defence if both parties were 16 | Under 18, illegal to have sex with person in position of care/ authority (eg. teacher) | If 16 or older person believed they were 17 | 18 (Age of Majority (Reduction) Act 1971) | No age limit for smoking; 18: can buy cigarettes | 18 | 18 | 18 | No age restrictions | 18 (16 & 17 with parents’ permission) | Any age – under 18 need to meet conditions (eg. parent permission etc) |

| | | | | | | | | | | | | |
|------------|----|---|---|--|-------------------------------|---|----|----|---------------------|---------------------------------|---------------------------------------|--|
| Tas | 17 | 12-14 – consent a defence if older person not more than 3 years older 15-17 – consent a defence if the older person was not more than 5 years older. | - | - | 18 (Age of Majority Act 1973) | 18 | 18 | 18 | No age restrictions | No age restrictions | 18 (16 & 17 with parents' permission) | Any age – under 18 need to meet conditions (eg. parent permission etc) |
| Vic | 16 | 10-16 – consent a defence if not more than 2 | 16-17 – offence with supervisor (eg. teacher, youth | 10-15 – consent a defence if can prove believed child was 16 | 18 (Age of Majority Act 1977) | No age limit for smoking; 18: can buy cigarettes | 18 | 18 | 18 | No age restrictions (changing?) | 18 (16 & 17 with parents' permission) | Any age – under 18 need to meet conditions (eg. parent |

| | | | | | | | | | | | | |
|-----------|----|----------------------|---|---|-------------------------------|---|----|----|----|---|---------------------------------------|--|
| | | years age difference | worker, foster carer) | | | | | | | | | permission etc) |
| WA | 16 | None | Under 18, illegal to have sex with "special carer" (eg. teacher, coach etc) | If 13-15 – defence if person believed they were of age of consent | 18 (Age of Majority Act 1972) | No age limit for smoking; 18: can buy cigarettes | 18 | 18 | 18 | ? | 18 (16 & 17 with parents' permission) | Any age – under 18 need to meet conditions (eg. parent permission etc) |

