



## WHEN “YES” CANNOT BE CONSENT

### Purpose of fact sheet

The purpose of this fact sheet is to provide information to youth and adult members who may be tempted to engage in sexual activity with a member of the opposite or same sex who is not old enough in Queensland to legally consent to that activity.

### Age of Consent

In Queensland the age of consent for engaging in sexual activity is 16.

This means that a young person under the age of consent cannot as a matter of law consent to sexual activity. Even though the young person may say yes the law says that they are too young to say yes and the person engaging in sexual activity with that young person commits a criminal offence.

The purpose of this law is to protect young people.

### Offences

There are a number of offences to consider including unlawful carnal knowledge of a child under 16 and indecent dealing with a child under 16.

Carnal knowledge involves the penetration of the vagina or anus by a penis no matter how slight the penetration may be. Attempting penetration is also an offence.

This offence is sometimes referred to as statutory rape and is committed when the young person is under the age of 16 years. Not knowing the age of the young person is no excuse.

Indecent dealing involves activities including touching, digital penetration and oral sex. It does not matter whether the young person is male or female.

It also does not matter whether the act is performed on or by the young person. The offence is committed if the young person is under the age of 16 years. Not knowing the age of the young person is no excuse.

### Penalties

The penalty for having unlawful carnal knowledge of a child under 16 years is 14 years of imprisonment. The penalty is increased to life imprisonment if the child is below 12 years of age or the accused is the carer of the victim.

Similar penalties and increase in penalty also apply to indecent dealing with a child under 16 years.

These are maximum penalties, and while not all offenders are imprisoned, the risk of imprisonment is high.

Factors which influence penalty include

- The age of the young person
- The age of the offender
- The difference in age between the young person and the offender
- Whether the offender is a guardian or carer of the young person
- Whether the offender used his position to commit the offence
- Does the offender have previous history of this type of offence

## **Blue Card**

A finding or plea of guilt in regard to these offences renders a person ineligible to hold a Blue Card. This is the case even if the court does not record a conviction for the offence.

## **Membership of Scouts Queensland**

Upon a complaint being made that a youth or adult member has committed one of the offences outlined in this fact sheet, the Chief Commissioner will suspend the membership of the person complained against while a Police investigation is undertaken.

If the police investigation results in a finding or plea of guilt the Chief Commissioner will then cancel the offender's membership.

In some circumstances membership may be cancelled by the Chief Commissioner after an internal investigation even if no Police action is taken.