

MEDIA RELEASE

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ATTENTION: Chiefs of Staff, News Directors



Sexual Offences Against Young People Final Report released

The Tasmania Law Reform Institute (TLRI) has released its Final Report on Sexual Offences Against Young People.

This report originated in a request from the Attorney-General to review the crime of sexual intercourse with a young person and the availability of the defence of mistake as to age.

The report discusses various aspects of that defence, including:

- whether the defence should be retained for sexual offences involving children
- whether mistake as to age should not provide a defence where a child is below a prescribed age (a 'no defence age')
- whether additional restrictions or a different formulation of the defence should be adopted.

Professor Kate Warner, Director of TLRI, said the report notes that care must be taken to ensure legislative responses appropriately target offenders.

"Child sexual offences provisions should be directed at sexual behaviour that exploits young people rather than seeking to criminalise consensual similar age sex," Prof Warner said.

"Given the inevitable tension between respecting the rights of an accused and affording sufficient protection to vulnerable children, it is critical that proposals for change reflect a careful and principled consideration of the issues."

The Institute makes 16 recommendations.

While the Institute does not recommend that a 'no defence age' be adopted, it recommends there be a further limitation on the defence of mistake as to age which requires, in addition to the requirements that the mistake be both honest and reasonable, that the defendant took all reasonable steps to find out the young person's age.

The Institute also argues that the uncertainty in relation to the defence of mistake as to age be clarified.

It recommends that the onus of proof in relation to mistake should be consistent for child sexual offences and that the onus should rest with the Crown.

The Institute also makes recommendations in relation to the crime of maintaining a sexual relationship with a young person, including a recommendation to provide for the extra-territorial application of the offence.

This means the court can take into consideration unlawful acts committed interstate as long as at least one act is committed in Tasmania.

The paper is available on the Institute's webpage:

www.law.utas.edu.au/reform

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