

Legal Age of Sexual Consent



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Empirical Research



Sexual activity amongst Maltese 16 year olds

According to the national survey *Sexual Knowledge, Attitudes and Behaviours*, conducted by the Ministry of Health (2012):

- Amongst 329 adolescents aged 16 to 18 years, **41%** report having had sexual intercourse.*
- Amongst the sexually active population, age at first intercourse is lowest amongst the 16 to 18 year olds at **15 years**.

***Data weighting** was applied to ensure survey results are representative for the population.

Once you had sex it is harder to say "no" the next time

Amongst the 16-18 years olds:

Strongly agree: 23.8%

Agree: 41.9%

Total: 65.7%

Most of my close friends have had sexual intercourse

Amongst the 16-18 years olds:

Strongly agree: 18.8%

Agree: 37.5%

Total: 56.3%

Main reasons for first sexual intercourse

Amongst the 16-18 years olds, who were sexually active:

47.5% - I was in love

44.7% - Natural step to follow in the relationship

25.4% - I felt I was the right age

21.5% - I was curious

15.2% - I wanted to lose my virginity

12.4% - I got carried away

10% - Friends are all doing it

8.3% - I gave into my partner's wishes

3.4% - I was under the influence of alcohol/drugs

0.7% - It was physically forced on me

You should be in love before you have sexual intercourse

Amongst the 16-18 years olds:

Strongly agree: 47.5%

Agree: 35%

Total: 82.5%

Use of contraception during first sexual intercourse

Amongst the 16-18 years olds, who were sexually active:

41.6% - Condom

36.4% - None

22.1% - Withdrawal

5.2% - Pill

1.3% - Intra-Uterine Method

1.3% - Natural Family Planning

How easy is it to talk about contraception with the person you have sexual intercourse with

Amongst the 16-18 years olds, who were sexually active:

Very easy: 32.5%

Quite easy: 42.9%

Total: 75.4%

Have you ever had unprotected sex because you were drinking or using drugs

Amongst the 16-18 years olds, who were sexually active:

YES - 21.1%

The Maltese National Sexual Health Policy (2010)

*"Research has shown that the likelihood of young people engaging in unplanned intercourse increased with **higher alcohol use**.*

*"The likelihood of engaging in unprotected sex and/ or having multiple sexual partners appears to be consistently high amongst adolescents who frequently drank until they reached a state of inebriation. Particularly for girls, weekly drunkenness-related **drinking was associated with multiple partners.**"*

Number of sexual partners in last 6 months

Amongst the 16-18 years olds:

56.8% - 1 sexual partner

20.3% - None

10.8% - 3-5 sexual partners

9.5% - 2 sexual partners

2.7% - 6 sexual partners or more

Sexually acquired infections

Amongst the 16-18 years olds:

- Do you know what a Genitourinary (GU) clinic is?

YES 47.4%

- Have you ever been told by a nurse/doctor/midwife that you had a sexually acquired infection?

YES 7.6%

In some studies, earlier age of sexual debut was consistently associated with SAI prevalence among adolescent males and females.

Teenage Pregnancy

- 32 babies were born to mothers aged 16 or under in 2011.*
- The highest rates registered in the southern harbour (14), followed by the northern harbour area (6).*

*National Statistics Office

Desired feature of sexual health services

Amongst the 16-18 years olds:

Advice on relationships

44.8% - Very important

42.9% - Quite important

Total: 87.7%

Pregnancy testing/Unplanned pregnancy counselling

54.8%- Very important

39.4%- Quite important

Total: 94.2%

LEGAL AGE OF SEXUAL CONSENT	EUROPEAN COUNTRIES
13	Spain
14	Albania, Austria, Bulgaria, Bosnia and Herzegovina, Estonia, Germany, Hungary, Italy, Liechtenstein, Macedonia, Montenegro, Portugal, San Marino, Serbia
15	Croatia, Czech Republic, Denmark, France, Greece, Iceland, Monaco, Poland, Romania, Slovakia, Slovenia, Sweden
16	Andorra, Armenia, Azerbaijan, Belarus, Belgium, Finland, Georgia, Kazakhstan, Latvia, Lithuania, Luxembourg, Moldova, Netherlands, Northern Cyprus, Norway, Russia, Switzerland, Ukraine, United Kingdom
17	Cyprus, Ireland
18	Malta , Turkey, Vatican City

Some Pertinent Issues



Adolescents in Malta are not homogeneous

The appropriate age for sexual initiation differs from one adolescent to another. Sexual readiness occurs at different ages. For a number of Maltese teenagers having sex at age 16 might be considered normal but for others it is unthinkable, terrifying even, as they simply:

- don't know how to go about it,
- they do not feel ready to do it
- they do not want to.

Consequently a significant number of adolescents 'postpone' sexual initiation up until their mid twenties or later.

What factors influence the onset of sexual activity?

- Overall dominant cultural and social norms
- Family background and upbringing
- Peer culture and peer pressure
- Personal, religious values and moral reasoning
- Media
- Sexuality education
- Personality (self-esteem, feeling shy etc.)
- Maturity level

Consent

-Not all teenagers understand the **implications** that the sexual acts they give consent to might have on their life and wellbeing.

-Not all teenagers know that **they have the right not to give consent.** Not all teenagers know what sexual health and wellbeing entail.

-Not all teenagers **would have planned** to engage in sex, when it actually happens.

Consent

The **OPPOSITE** is also the case. There are 16 year old adolescents who:

-are capable of sound decision making, which benefits their sexual well being.

-know what they want or what they don't want in terms of their sexuality.

Sexual activity, which feels right

Sexual activity, which feels right for 16 year old teenagers, could be considered part of their growth and development.

Their exploration of human sexuality could help them establish a **greater sense of identity**, as they experience **satisfaction through sexual intimacy** and closer interpersonal relationships.

From this perspective, criminalising these teenagers for their sexual behaviour, might be considered inappropriate.

Sexual exploitation

-Younger adolescents might be at a **greater risk** of sexual exploitation than older adolescents, since they might **lack the maturity needed** to handle the responsibility of becoming sexually active and make safe sexual health decisions.

-According to Maltese legislation, **forced sexual behaviour** onto another person of any age is illegal. Sexual criminal actions together with their punishments are listed in the Criminal Code (1854), Title VII, *Of Crimes affecting the Good order of Families*.

-Adolescents **might not be aware** of the legal implications regarding their rights and obligations surrounding sexual activity.

Significant age difference between the sexual partners

-Significantly older sexual partners do not necessarily sexually coerce 16 year old minors.

-Yet there is some research showing that teenage girls with older partners are more likely to become pregnant than those with partners closer in age.

-Perhaps the law can make it illegal for sexual partners to be older than say 10 years than their partner. This could however be taken to mean that one is discriminating against the older partners because of age.

The protection of minors

-In view of potential harm that sexual activity at 16 years might entail, the possible introduction of legislation to decrease the minimum age of sexual consent to 16, needs to ensure that **those teenagers who are most vulnerable and particularly at risk of being sexually exploited or assaulted, are safeguarded and protected.**

-HOW?

The protection of minors

(i) **Sexual health clinics** administered through the Health Promotion Unit and NGOs.

*"All services are to address **medical, psychological, ethical and social needs** in as user friendly a manner as possible, including the development of outreach services for clients, particularly those with special needs.*

"All services are to be evidence-based, which will include the use of standard national guidelines developed by authorized entities.."

Sexuality education

(ii) Sexuality education in schools, youth hubs, youth centres, media etc. The provision of an effective sexuality education is a right.

*"Wellings et al.³² had examined the relation between sexuality education and early sexual experience with a sample of 18,876 British participants and concluded that **the data provided no significant evidence to support the prevalent concern that provision of school sex education might hasten the onset of sexual experience.**"*

Sexuality education

A review of 53 studies to examine the impact of HIV/AIDS education on young people's sexual behaviour concluded that:

*"The overwhelming majority of reports reviewed [...] regardless of variations in methodology, countries under investigation, and year of publication, **found little support for the contention that sexual health education encourages experimentation or increases sexual activity.**"*

Sexuality education

*"Using data from a nationally representative survey among 2019 never-married males and females aged 15–19 years in the United States, Mueller et al. found that **sexuality and relationships education had effectively reduced adolescent sexual risk behaviours when provided before sexual initiation.**"*

Sexuality education

*"Another recent comprehensive review of studies suggests that **comprehensive programmes may actually delay sexual intercourse and increase protection against sexually transmitted infections and unplanned teenage pregnancies...** The evidence strongly suggests that comprehensive sexuality education **does not hasten** the onset or increase sexual activity"*

A balancing act...

A proposed legislation needs to:

- (i) safeguard young persons from sexual dysfunction, exploitation and abuse
- (ii) legitimise their sexual expression, which makes them who they are, as they transition towards young adulthood.

References

-Ministry of Health (2012), *Sexual Knowledge, Attitudes and Behaviours*. Malta: Ministry of Health.

-National Sexual Health Policy: <https://ehealth.gov.mt/healthportal/news.aspx?newsid=361>