

PRACTICE GUIDE

Termination of pregnancy – supporting young people

Legislative overview

The *Termination of Pregnancy Act 2018 Qld* (the Act) was enacted in December 2018. Prior to this, termination of pregnancy was considered unlawful except in limited circumstances.

Termination of pregnancy is positioned as a health issue and not a legal issue. The Act:

- supports a woman's right to health including reproductive health and autonomy
- enables reasonable and safe access by women to terminations
- provides clarity and regulates conduct of registered health practitioners in relation to requests for termination of pregnancy
- brings Queensland legislation in line with other Australian jurisdictions.

Termination of pregnancy legislation and young people

The Act states that a woman means a female of any age. Under this definition, a termination of pregnancy is the individual decision of any female, including young people who are under the age of 18 years and in care.

Assessing Gillick competence

It is the role of a health practitioner, and not Child Safety, to assess whether a young person can consent to a termination of pregnancy through an assessment of Gillick competence. A health practitioner will make an assessment of a young person's Gillick competence for each new medical decision.

A young person who is Gillick competent can consent to medical procedures. There is no formal age limit for an assessment of Gillick competence.

Young people who are Gillick competent can choose whether or not to involve a parent or guardian when making a decision about having a termination of pregnancy. Where this is the case, a health practitioner must respect the young person's wishes and confidentiality must be maintained.

Where a young person is not Gillick competent

For a young person who does not have capacity to consent to medical treatment, only the Supreme Court of Queensland (in its *parens patriae* jurisdiction) may authorise a termination of pregnancy. A parent, guardian or the chief executive cannot give consent.

The process for obtaining a decision regarding termination of pregnancy from the Supreme Court may vary between locations, including whether or not the young person is receiving public or private medical consultation services. The health practitioner who is assessing the young person will make an application to the Supreme Court for a decision, and the Supreme Court must act in the best interests of the young person. The health practitioner will escalate these cases for urgent attention to the Executive Director of Medical Services or equivalent at the relevant Hospital and Health Service.

When a young person is in care, the health practitioner will advise the child safety officer of an intention to seek a decision from the Supreme Court, and the outcome of that decision.

Counselling

Health practitioners will offer, provide, or refer the young person for psychological support and counselling before and after the termination of pregnancy. They may also make referrals to other specialist providers, if required.

For pre-termination counselling, the young person may be eligible under Medicare to receive a maximum of three 30-minute support counselling services by an eligible health practitioner, or eligible psychologist, social worker or mental health nurse on referral from a health practitioner.

Child safety officers can offer to organise health appointments or specialist appointments in consultation with the young person and support them to have all the necessary documentation ready to be provided to a health practitioner when they are attending appointments. Child safety officers can also offer to assist with additional referrals that may meet the young person's needs and determine what assistance Child Safety can provide towards meeting the cost of health appointments.

For young people with a disability, Child Safety should work with the counselling service to take into account the young person's individual needs. This includes providing the young person with accessible information.

Young people with intellectual disability

While it may be easy to assume that a young person with an intellectual disability may not have the capacity to consent to a termination of pregnancy, a health practitioner will still need to make an assessment of Gillick competence for the young person, in the same way they would for any young person.

Informed consent is an important part of consent and requires the young person's understanding of their available options. When Child Safety is supporting a young person with a disability, it is important to provide information in a range of formats, to meet the young person's individual needs to be able to provide informed consent. This can include Easy English resources or the use of pictures, adjusting language or giving the young person extra time to process the information.

People with a disability may be vulnerable to agreeing to a termination because of feeling pressured or because of the views of those supporting them. It is important to ensure the young person's decision is free from pressure by others.

Mandatory reporting responsibilities

Regardless of whether a young person consents to a doctor sharing information about them, a doctor must report any reasonable suspicions of abuse and neglect to Child Safety.

Under the *Child Protection Act 1999*, doctors employed in both the public and private health sectors are mandatory reporters.

Reporting information to the Queensland Police Service

In Queensland, any sexual activity involving a young person aged below 16 years is unlawful. This is the case regardless of the sexual activity and the gender of the participants. This includes sex between young people under 16 years where both are of a similar age.

A Child safety officer will immediately make a report to the QPS under the *Child Protection Act 1999*, [section 14\(2\)](#) if:

- a young person under the age of 16 has been involved in sexual activity
- it is believed that harm to a child, including a young people over the age of 16, may involve the commission of a criminal offence relating to the child.

Refer to the Child Safety Practice Manual procedure, Receive and respond at intake, [Gather information from a notifier](#) for the process of reporting information to the QPS.

A foster or kinship carer may be the first person to be aware of the sexual activity of a child in care. Carers are required to report critical incidents to Child Safety or their carer support agency immediately, or as soon as practical given the circumstances. Carers can contact Child Safety anytime during business hours or after hours. These matters are recorded as critical or major incidents and are responded to in line with the department's critical incident framework.

The QPS will make a decision about whether to take further action, which will include consideration of the age of both individuals and information available around consent.

Information sharing

The *Termination of Pregnancy Act 2019* does not have any impact on information sharing provisions of the *Child Protection Act 1999*. Child Safety may still seek information from Queensland Health about a young person, providing the request meets the provisions under *Child Protection Act 1999*, section 159.

Gestational limits for a termination of pregnancy

A medical practitioner can perform a lawful termination of pregnancy on request up to a gestational limit of 22 weeks (22+0).

For a young person who is greater than, or equal to 22 weeks and 1 day (22+1), a termination can be carried out if at least two medical practitioners agree that the termination should be performed after considering all the circumstances, including the person's medical circumstances, and the person's current and future physical, psychological and social circumstances.

Termination of pregnancy method

There are two types of procedures for termination of pregnancy—medical or surgical:

Medical termination of pregnancy (MToP) is when medications are used to induce the termination.

Surgical termination of pregnancy (SToP) is when gentle suction is used to empty the uterus. This (surgical curettage) is generally suitable up to 14 weeks gestation. Surgical procedures for pregnancies beyond this are performed by an experienced practitioner.

For gestations more than 22 weeks and 1 day (22+1) feticide, which is the termination of a foetus, is usually clinically appropriate and is provided by a trained specialist.

Consent

Medical and surgical termination of pregnancy

The treating health practitioner will talk the young person through the consent requirements relevant to their circumstances. Each procedure (MToP or SToP) requires different consent, either:

- MToP: A Gillick competent young person is required to sign an MToP consent form AND a separate consent form for the administration of the medications, Misoprostol and Mifepristone.
- SToP: A Gillick competent young person is required to sign a SToP consent form only (unless the medications Misoprostol or Mifepristone are required and then an additional consent form is required for the administration of this medicine). There are no other consent forms for this procedure.

Anaesthetic

A surgical termination of pregnancy may include the use of either analgesics, local anaesthesia, mild sedation, or a general anaesthetic. Young people will provide their own consent for the administration of any form of anaesthetic (including a general anaesthetic) which is part of the consent process on the SToP consent form.

Child Safety will still provide consent for the administration of general anaesthetic for any other medical treatment for a child in care not relating to termination of pregnancy.

Contraception after termination of pregnancy

The medical practitioner should discuss contraceptive options with the young person at pre-termination and post termination of pregnancy.

Child Safety has a responsibility to support young people in care to explore appropriate contraception options and have access to appropriate methods. This may include contraceptive medication, injections, condoms (for all genders) and devices. Factors such as cost, efficacy and duration should be explored with the young person.

For young people with a disability, it is important to offer support to develop safe and healthy relationships. Support may also be accessed through organisations like True Relationships and Reproductive Health. If the young person is a National Disability Insurance Scheme (NDIS) participant, funding may be included in their NDIS plan.

Where a young person chooses not to inform Child Safety about termination of pregnancy

Under the Act, a young person can make their own decision in relation to having a termination of pregnancy. If a young person requesting a termination of pregnancy tells a medical practitioner that they do not wish to involve their parents or guardians, then the medical practitioner must respect the young person's privacy and confidentiality (notwithstanding their other mandatory responsibilities).

A young person may tell their carer about their decision to seek a termination of pregnancy and request that Child Safety not be told. In these circumstances, the carer should discuss with the young person why they are worried about Child Safety knowing about their decision. A carer should consider the young person's position but be clear with the young person by telling them that they may need to advise Child Safety if they have worries about any aspect of the circumstances that have led to the pregnancy or the termination of pregnancy or if they have concerns for the young person's health and wellbeing.

Any allegation of rape or sexual assault is included as a critical incident and carers must report this to Child Safety, a decision by a young person about a termination of pregnancy is not captured by critical incident reporting.

How carers and support workers can assist a young person considering or having a termination of pregnancy

Where a young person tells a carer or support worker that they are considering, or have had, a termination of pregnancy, that carer or support worker will provide appropriate support. This might include supporting them to attend appointments, helping them to access counselling and providing options for ongoing contraception. If the young person has a safety and support network, carers can ask the young person how they would like their safety and support network to support them.

When a young person makes the decision to have a termination of pregnancy, it is important that the young person sees a medical practitioner without delay. Organisations such as Children by Choice can be contacted for advice and support. A full list of pregnancy termination providers in Queensland can be accessed on the [Children by Choice](#) website. There are public hospitals and services across the state that also provide termination of pregnancy services free of charge. A young person, or their carer or support worker, can contact their local hospital to find out if termination of pregnancy services is provided.

Useful links for information and referral

[Children by Choice](#) offers free all-options pregnancy counselling, information and referrals in Queensland. Call 1800 177 725 (free call). Children by Choice have a list of free of charge pregnancy termination services in Queensland.

[13HEALTH](#) provides health information, referral to other health care providers and services to the public. Call 13 HEALTH (13 432584) to speak with a registered nurse, 24 hours a day 7 days a week service.

[Women's Health Queensland](#) offers health promotion, information, counselling and education services to women and health professionals in Queensland. Call 1800 017 676 (free call).

[True Relationships and Reproductive Health](#) provides expert reproductive and sexual health care. Make an enquiry through the website.

[YouthLawAustralia](#) can be contacted for free and confidential legal information and help for Queensland young people under 25 about a range of topics specifically for Queensland young people including sex and dating, consent, and pregnancy.

Version history

Last reviewed: August 2021