



THEME OF THE MONTH
DECEMBER 2022

CONSENT



What is Consent?

As defined legally by Section 74 of the Sexual Offences Act 2003:

‘A person consents if he [she/they] agrees by choice and has the freedom and capacity to make that choice.’

The Act refers to consent as being an agreement between two people to engage in sex or sexual activity. Sexual offences are serious crimes that only the perpetrator is to blame for. No blame should be given to anyone who experiences such acts.



What the law says about the **age of consent**

When we talk about consent we need to take into account the age of consent. There are a number of different points in the law that covers this.

Children under the age of **13 years old**

Children under the age of 13 years old are unable to consent. It doesn't matter if they say yes, are seen to say yes or appear to be in agreement - this can't be taken as consent. The law states that sexual activity with any child under 13 years old is not consensual and is illegal. This is a crime and is seen as rape, assault or sexual abuse.

Those who are **16 years old and over**

A child is old enough to consent to sex or sexual activity once they reach 16 years old. This is known as the 'age of consent'. This law applies to everyone, regardless of gender or sexuality. The law is not there to prosecute two children under the age of 16 who engage in mutually consensual sexual activity. It is there to protect children.

What the law says about those in **positions of trust**

The law states that anyone under the age of 18 cannot legally consent to sexual activity with someone in a position of trust. Such as teachers, care workers, social workers, doctors, youth workers and other professionals.

The **Sexual Offences Act 2003**

The Sexual Offences Act 2003 is designed to protect people from abuse, and to protect young people from being taken advantage of and harmed by adults. The Sexual Offences Act 2003 (Section 30), also applies to, and protects, people over 16 years old who may be at risk to sexual abuse or exploitation due to a learning disability, mental ill health or other cognitive impairment. This is referred to in the Act as 'a mental disorder impending choice'.

Verbal and Non-Verbal Consent

We all use verbal and non-verbal communication within our lives, and it is just the same with consent. Sexual consent isn't just about saying yes or no. It isn't always easy to know, from one expression or action, or even from what has been said. It is important that further steps are taken to find this out from our partner(s).

Verbal Consent

Verbal communication is the use of words to convey a message. It is important that everyone is aware that all parties must be fully consenting and happy to engage with sexual activity before going ahead.

Non-verbal Consent

Non-verbal communication is the use of body language or other non-verbal signals to convey a message. Consent does not always have to be verbal. Someone can consent and not even have to speak a word. It is important to be able to spot the signs, and seek clarification if unsure about whether someone is consenting. It is good practice to have a verbal clarification with someone, if possible.

What if an individual changes their mind?

All individuals have the right to change their mind at any time. They also have the right to enjoy sex or sexual activity, and then not want to do that again on that occasion, or any other time thereafter.

What is **Stealthing**?

Stealthing is one of the ways that consent can be broken without other involved parties being aware of what is happening. It is the non-consensual removal of a condom during sexual intercourse, when the sexual partner has only consented to sex with a condom. Because of this, people are exposed to the risk of Sexual Transmitted Infections (STI), such as HIV/AIDS or unwanted pregnancies.

As of 2020, this behaviour is regarded as sexual assault, rape or reproductive coercion, and is punishable as sexual violence. Purposefully damaging or tampering with a condom before or during intercourse is also referred to as stealthing.

Examples of when consent is **not given**

It is just as important for individuals to be able to recognise verbal and non-verbal signs of unwillingness to give consent. These signs can be very clear and obvious, but other times, they can be a little harder to read. Remember, the absence of 'No' does not mean the person has consented. When in doubt, people should always clarify what the other person wants to do.



Situations where there is **no consent** include:

- “No”
- “Stop it”
- “I don’t want to do that”
- Saying nothing/silence
- Turning themselves away from you
- Pushing you away
- Not responding to you
- Avoiding touch



What is **Coercion**?

When someone is under physical or emotional pressure, this can also be described as ‘coercion’ or ‘being coerced by another person’. When someone is coerced into saying yes, it means that they are doing this against their will. Sexual coercion is sexual activity that is unwanted but happens when someone is pressured, tricked, forced into or threatened.

It can cause the person who experiences it to be humiliated or feel intimidated. It can also be used to punish or harm, both physically and/or mentally. It is important to remember that people do not always have the freedom to consent, and they can be coerced.

Why might someone be at **risk of sexual coercion**?

Coercion can be obvious threats of physical violence. It can also be very subtle and not easy to spot, or speak up about. There are many reasons why people choose not to speak out about their situation. Situations why someone may choose not to speak out about what is happening include:

- Guilt
- Threats
- Position of power/status
- Age
- Domestic abuse

Guilt

An example of this is where a person makes another person feel guilty if they don't agree to do what they want them to do. Coercion can make someone think that they owe the other person sexual favours. They might threaten to leave or take something away from that person. For example, "If you love me, you will have sex with me".

Threats

An example of this might be that an individual has said they have images of a person, and threatened to show them to others and post them online, or that they know something about them that they would not like shared. They say they will share it with others if that person doesn't have sex with them.

Position of power/status

Another example is someone who has power/status over the other person, and is someone who the person trusts. For example, this could be a teacher, religious leader, employer, gang member, carer or doctor. A sign of coercion in this instance is if an individual in one of these positions of authority begins to control another by threatening their status.

Another example of this is where someone is reliant on another person to provide them with safety, money, care and support. If they deny the person the opportunity for sexual activities, they may lose this support.

Age

Someone who is much older than the individual could potentially coerce them into doing things that they don't want to do, by using the individual's inexperience to their advantage. They may also convince the individual that no one will believe them if they tell anyone.

Duty

A partner or family member may coerce an individual into doing things that they don't want to do, but state that it is their duty to do it. For example, "I am your girlfriend, you should do this for me".

Domestic abuse

The individual may be experiencing domestic abuse from their partner/significant other. They may fear for their life, family and freedom if they speak out.

How do you recognise the signs?

Some common examples that could indicate an individual may be the victim of coercive behaviour include:

- Becoming isolated from their friends and family.
- Having their finances controlled - appearing to have less access to money, resources or possessions.
- Being threatened or intimidated.
- Being monitored via cameras or spyware.
- Being told what to wear and where they can go. They may have changed appearance, style and/or behaviour.

KEY FACT

There were 17,616 offences of coercive control recorded by the police in the year ending March 2019, compared with 9,053 in the year ending March 2018. (ONS, 2019)

Source: Office for National Statistics (ONS). (2019) Domestic abuse in England and Wales: year ending March 2019. Published online: ONS

What is lacking **capacity**?

When people are not able to give their capacity to consent, we can say that the person 'lacks capacity'. A person can lack capacity for different reasons. People can lack capacity in a given situation, at one particular time, and at other times, in other situations, they may have capacity.

UK law says that both parties have to give consent to sex or sexual activity, and not just one person. If there are more than two people, then it has to be all of those involved providing their consent.

Someone who is deemed to be lacking capacity to choose may be classed as a vulnerable, or at-risk, individual, and extra steps need to be taken to ensure they fully understand the situation. There are different instances and situations that could mean that a person may lack capacity, such as:

- Alcohol/drugs
- Disability
- Age

Review

All individuals should understand the importance of healthy and consensual relationships. Through gaining the knowledge of what a healthy relationship is like, they can be empowered to identify when relationships are unhealthy. This can help to ensure that the risk of any allegations of abuse or crimes are minimised and eliminated, and help to keep everyone safe from harm.



USEFUL CONTACTS

Here are some sources you may find useful if you need support.

Rape Crisis

[Website](#)

0808 802 9999

The Survivors Trust

[Website](#)

0808 801 0818

Women's Aid

[Website](#)

helpline@womensaid.org.uk

Male Survivors Partnership

[Website](#)

0808 800 5005

Victim Support

[Website](#)

080 816 89111

LSP'S SAFEGUARDING & MENTAL HEALTH FIRST AIDER TEAMS

If you have any concerns at all, please don't hesitate to contact a member of our Safeguarding or Mental Health teams:

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