

**SEX AND
CONSENT:
WHAT
YOU NEED TO
KNOW**



Northern
Ireland
Office

THE NEW LAW SAYS:

“A person consents if she/he agrees by choice and has the freedom and capacity to make that choice.”

Sexual Offences Order, Article 3

TO AVOID A CONVICTION FOR RAPE YOU NEED TO:

- Make sure that the other party consents to sex
- Make sure that the other party freely consents and is under no obligation/duress/threat/inducement
- Make sure that the other person is capable of making an informed choice

THIS MEANS BEING ABLE IN COURT TO:

- demonstrate that you took action to make sure that the other party consented to sex
- convince a jury that your belief in consent was based on reasonable grounds

It is also now the case that if certain circumstances existed, a jury can presume that consent was not given unless you can prove otherwise.

These circumstances are:

- If you use violence, or threaten immediate violence, to the other person or a third party
- If the person was held against their will

- If the person was asleep or unconscious
- If the person had a physical disability which would have prevented them communicating consent
- If any drugs were used which could have stupefied the person.

And, in the following circumstances, a jury will be able to presume that consent was not present and you will be convicted of rape:

- You deceived the person about the nature or purpose of the act you were about to do
- You obtained consent by impersonating someone known to the victim

Giving consent means freely choosing to say ‘yes’.

It is your responsibility to make sure that the other person agrees to sexual activity.

Everyone needs to remember that a person can say yes to a kiss and other intimate behaviour but this doesn't automatically mean yes to full sex.

To accept anything other than a positive act which clearly indicates consent is liable to result in a charge of rape.

For more information see **‘Safer from sexual crime; how the law is protecting you’** on www.nio.gov.uk/sexualoffences