

Sex without consent is rape – whatever the circumstances #GetConsent

No-one goes on a date expecting to be raped, so no-one should go on a date expecting or feeling entitled to sex and Police Scotland are reminding everyone to make sure you #GetConsent, because sex without it, is rape.

The '#Get Consent' campaign makes it clear that sex without consent is rape – whatever the circumstances.

**Date night does not
mean sex is always
on the menu.**

Sex without consent is rape.



#GetConsent

Consent is defined as 'free agreement'. Where some form of coercion, violence or threat is used, this means there has been no consent given.

In addition to this definition, The Sexual Offences (Scotland) Act 2009 provides a list of situations where consent could not be given:

Where the victim is incapable of consenting because of the effect of alcohol or any other substance.

Where the victim is asleep or unconscious.

Where the victim agrees or submits to the conduct because of violence or threats of violence used against them, or any other person.

Note: Other situations may occur that are not on this list.

This does not imply that consent is given.

The Sexual Offences (Scotland) Act 2009 Act also clarifies the position where consent is given and then later withdrawn. It states the following:

Consent to one type of conduct does not imply consent to any other type of conduct.

Consent to conduct may be withdrawn at any time. This can be before or during the conduct.

If the conduct takes place or continues to take place after consent has been withdrawn, it does so without consent.

Having the capacity to give consent is important. If the victim has any mental illness; personality disorder; or learning disability, however caused or manifested, this must be acknowledged. Anyone is incapable of consenting to conduct if through their mental disorder they are unable to do one or more of the following:

Understand what the conduct is.

Decide whether to engage in the conduct (or as to whether the conduct should take place) or not.

Communicate any such decision.

Support and information for victims of rape.

What is rape? – The Sexual Offences (Scotland) Act 2009 states that rape occurs when a person intentionally or recklessly penetrates another person's vagina, anus or mouth with their penis, where the victim does not consent and the person responsible has no reasonable belief that the victim is giving consent.

In circumstances where penetration is initially consented to but consent is later withdrawn, the person responsible will

have committed rape if they continue in their conduct.

Police Scotland is committed to supporting victims of rape and sexual crime regardless of when the incident happened.