

Lessons on Consent

Dr Kate Cook reflects on education on consent and on challenges to the law on sexual offences in the wake of the second trial of footballer, Ched Evans.

Manchester Law School is offering some workshops on sexual consent to any interested undergraduate students, in partnership with the charity *Consent* (<http://consentcharity.com/index.html>). We hope that these short workshops will give our students the opportunity to consider the true meaning of consent in sexual relationships. This is just one of the initiatives currently underway at Manchester Metropolitan University, where we all aim to encourage our students to become enlightened members of society.

The workshops were developed by the charity in partnership with rape crisis centres and are based on the model of support and education used within the rape crisis movement over the past 40 years in this country and elsewhere (<http://rapecrisis.org.uk/>). Dr Helen Jones and I explored the history of the British movement in our book *Rape Crisis: Responding to Sexual Violence* (Russell House Publishing, 2008). The model uses knowledge from women's accounts of sexual offences to develop tools for learning that are based on lived-experience. It is heartening to see this valuable work being put to such good use, within our universities.

Over the past weeks, I have also been teaching our second-year undergraduates about the law on sexual consent, immediately in the aftermath of the second trial in the Ched Evans rape case, which has led to his acquittal. The Court of Appeal ruling which allowed this second trial has attracted criticism from former Solicitor General, Vera Baird, (<https://www.theguardian.com/society/2016/oct/15/ched-evans-case-exceptional-nature-deter-women-reporting-rape>) who says that this case must remain an exception, if the law on the admissibility of sexual history evidence is not to be undermined. The Court of Appeal ordered a retrial after considering the admissibility of evidence from two men on the complainant's previous sexual behaviour. This meant that, at retrial, she was asked some arguably deeply intrusive questions, about her sexual preferences.

Section 41 of the Youth Justice and Criminal Evidence Act 1999 limited the scope of this type of evidence in an attempt to protect complainants from these sorts of questions. Many feminists, including myself, were involved in campaigning for this change in the law and I think it is fair to say that it may now need to be revisited, to reinforce the protection available for complainants in sexual offence cases. The current Attorney General (Jeremy Wright) appears to agree with this point of view, (<https://www.theguardian.com/law/2016/oct/27/law-concerning-use-of-sexual-history-in-trials-could-be-reformed>) so it may be that legislation will be forthcoming.

In the meantime I am left thinking about the young woman in the Ched Evans case who was 19 years old, on the night in question. I worry also about all the other youngsters let down by sexual offences laws which still bring in relatively few convictions, despite year-on-year increases in reporting. All of this makes training, such as the consent workshops we are about to host, even more important.

It is known that many sexual offences still go unreported, but it is believed that this has been improving in recent years. Nevertheless, reporting figures should not be taken to be a picture of the prevalence of sexual crime. Published official statistics show the levels of reported sexual offences

rising, with figures to June 2016 showing an increase of 14% in sexual offences recorded by the police. The total number of offences was a shocking 108,762 for England and Wales (<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingjune2016#no-change-in-csew-sexual-offences-and-rise-in-police-recorded-offences-slowng>).

The publications which look at cases sent to trial are not so up to date, but they show that, during 2011, just 9,900 defendants appeared in Magistrates' court on sexual offences (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214970/sexual-offending-overview-jan-2013.pdf). It should be acknowledged that some of these offenders will have been charged with multiple offences. However, on the face of it, it seems that the majority of reported cases do not even proceed this far.

This attrition in cases, whereby only a proportion of instances are reported and recorded as crimes and only a small proportion of offenders are proceeded against has been the target of feminist concern and activism for more than 25 years now. It is disappointing that we may yet again need new legislation to try to ensure a fair hearing for complainants in sexual offence cases, but it seems that it may indeed be time to lobby again for further change. Perhaps our students, who have had educational chances that nobody in my generation received, will be able to see more positive change, in their lifetimes.