

Magazine

Do people understand what rape is?

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The specially written drama depicts a sexual encounter between two teenagers

Warning: This article contains explicit sexual detail

Do teenagers understand sex and consent? To find out, a group of 16-18-year-olds were shown a specially written drama about an incident to see if they could work out if it was consensual sex or whether a crime had been committed.

Sex and consent is a much discussed issue at the moment and secondary schools are introducing sexual consent lessons.

The world of sex and relationships is a difficult one for teenagers to navigate. To hear in their own words where the challenges lie, the BBC brought together 24 teenagers, 12 of each sex, to watch a drama set at a house party and debate whether rape had been committed.

Their responses are revealing.

Dramatised encounter contains scenes of a sexual nature

1. The Scenario

The teenagers watch a dramatised house party in which a sexual encounter takes place. They debate whether they think the female character, Gemma, consented to that encounter, and then vote on what happened. Lawyer Abigail Husbands, who specialises in rape trials and advised on the storyline of the drama, gives her feedback.

Tom, 18, spots Gemma, 17, a girl he once briefly went out with, at a party chatting to his friend Phil. Gemma and Tom meet in the kitchen, where they have a friendly chat while getting some drinks.

Gemma dances with her friends. She shoots off flirty glances in the direction of Tom and Phil. Later Tom walks in on Phil and Gemma kissing in the bathroom. They laugh, he appears upset. Tom continues to drink then falls asleep in the kitchen. The party ends and Gemma makes up a bed for herself in the living room. Tom wakes up and stumbles in. A while later, Tom asks Gemma, who is dozing, if he can share the sofa with her as he is cold. She agrees but insists he must be quiet as she wants to sleep.

Tom moves closer to her and she stirs slightly. He tells her how gorgeous she looked at the party and reminds her of a previous episode when they had "ended up getting off" with each other. Gemma drifts off. Tom moves even closer and Gemma briefly opens her eyes but doesn't respond. Tom puts his hand on her face - she very slightly tries to move away but doesn't say anything. Tom's hands are on Gemma's face. He manoeuvres himself on top of Gemma, who remains rigidly still and silent. Tom puts his hands on the back of Gemma's neck and puts his penis in her mouth.

Two weeks later, Gemma contacts the police to say that someone she knew "did something" to her.

"It was a horrible case of miscommunication."

"One of the main things I was thinking - Tom, he seemed like a normal guy at a party. It could have been anyone. He could have been anyone just intoxicated at that moment, and he just went for it. That's the scary thing about it."

The lawyer's view: "There is a label of rape which can sometimes be unhelpful I think in these sorts of cases, because everybody's got a picture of a rapist in their mind, and it isn't a 17 or 18-year-old boy who has had a bit too much to drink at a party."

"She didn't say no - it could have just been because she couldn't be bothered to say no. We've all been in a situation with a boy trying to force himself on us - in the end you just kind of [say] 'OK, fine whatever'."

"I interpreted it in fact that she was afraid of him and afraid of what he would do if she started to resist and this submission is not a sign of consent."

"By her not saying no he then obviously took that as a yes, which is wrong but in his mind the point is that she didn't say no. She didn't actually say anything right. If she didn't show she was up for it at the same time she didn't do anything to stop it - so I think that it could be taken as consent."

The lawyer's view: "What you've got to look at is what she was doing. She was doing nothing. She wasn't responding, she had her arms down by her side. She wasn't kissing him, she wasn't inviting any of that. Looking at that, I'd say there was no reasonable belief in consent there."

"It can be classified as rape, but it's not... as bad... as some other cases, for example - this was only oral sex, not penetration. But we don't know the whole story. We don't know what she did in this to instigate the incident, but I don't think she's completely innocent."

The lawyer's view: "The definition of rape includes oral sex. Penetration with his penis of the mouth, vagina or anus is rape (if it is non-consensual and he doesn't believe they are consenting). There is no distinction. The sentence is the same whether it is a vaginal or oral rape."

"If she wanted it she should have given something back like he was kissing her face she didn't kiss him back. She was just lying there like a plank."

The lawyer's view: The law as it is now came into force in April 2004 and is similar to the law that has been in place for many years. Prosecutors will not look for evidence of a woman shouting out or saying "no". It is now understood that women often freeze in situations of rape when they are not consenting. That is why young people need to understand that they cannot carry on until they are told to stop. They should be having a dialogue about what is happening and asking whether they are happy to go further.

Did Gemma consent?

teenage panel vote

13% Yes

54% No

33% Don't know

BBC

2. Tom's view

The panel are given more information about Tom and Gemma, they discuss the issue of consent and then vote on whether they think Tom believed he had consent.

Tom is arrested on a charge of rape. He maintains that he believes Gemma had consented. He says she sent him a text message inviting him to the party, which was signed off with three kisses. But the text message was sent to a group and not just to Tom. He points out that they got physically close when they chatted at the party. Gemma maintains the music was so loud they had to get close to hear each other. And he says she was flirting and constantly looking over at him. Tom, however, had been standing with Phil, whom it was revealed Gemma had had sex with the week before.

"You can flirt, and you can flirt, and you can flirt, but it's not an invitation."

The lawyer's view: "There is some understanding of this now. Young people are aware of it in the cold light of day, but they need to understand the full implications of getting it wrong"

"If we could say that Tom could be charged with a sex offence rather than rape, we would prefer that."

The lawyer's view: "There is certainly a feeling that jurors are reluctant to convict a young man of good character in these circumstances of rape. It comes back to the misconception of what a rapist is. It can be thought that rapists have to go out that evening intending to rape someone which is simply not the case. Like many serious crimes, wrong decisions made on the spur of the moment can have devastating consequences for all."

"She'd invited him to the party, they'd been in a relationship before so they obviously had a friendship - I don't think it was all him."

"I said yes because they'd been in a relationship in the past, they'd done sexual activity

in the past... and she let him into her bed."

The lawyer's view: "What's important is whether she consented that night to that act. It doesn't matter how much they've been together beforehand. It doesn't matter that she had previously sent intimate pictures on Snapchat. None of that has a bearing on whether Gemma consented."

"He thinks that she flirted with him, that's - that's one side of this story, she thinks that she was just being friendly. It was loud, so they had to be close. That is the misunderstanding bit. But he did what he did."

Did Tom believe he had consent?

teenage panel vote

54% Yes

30% No

16% Don't know

3. Gemma's view

This section focuses on how Gemma reacted. The teenagers are then asked to vote on whether they think Tom is guilty of rape.

How did Gemma react during the encounter? Contains scenes of a sexual nature

Tom says that he and Gemma had been kissing on the sofa, but when questioned about whether she had in fact kissed him back, he says he can't remember. He argues that at no point did Gemma say "stop", she didn't seem upset and that her lack of response indicated "she was into it". Gemma, however, says she didn't do anything because she hoped he would "get the message" and stop. She says she then "just froze".

"Calling this person a rapist implies that they did it with intent and with the worst emotions, and I don't think that's what Tom did. Even though he did rape her, I don't consider him to be a rapist."

"We didn't realise that what happened between Tom and Gemma would be classed as rape. A lot of us thought it... only applied if it was actual sex going on."

Throughout the process some of the teenagers changed their minds about whether Tom believed he had consent.

"Consent is willing to do something. And really willing to do something ... it should be a case of yes I am willing to do this, or no I'm not willing to do this....I decided it was rape."

Is this rape?

teenage panel vote

87% Yes

4% No

9% Don't know

During their time together, some of the teenagers opened up about their own sexual experiences, revealing just how blurred the lines around consent are.

"I know people that have been in situations where they haven't given consent to their boyfriends even for sex for that particular time, but their boyfriend's gone ahead with it anyway," says one girl.

"Some girls don't want to say no, because they don't want to be seen as a prude... boys are like, 'Oh, you're just playing hard to get' when really you're like 'No'. And boys think it's a game," says another.

One boy says the discussions had led him to question his previous actions: "Have I actually done something and not known that I've done it?"

Finally, a teenager, who revealed that she herself had been raped, showed her frustration as others grappled with the definition of rape and the fact that Tom had been convicted of the crime in the scenario

"If someone said to me the person who abused me was not a rapist... with murder there's manslaughter and things like that, but rape is different. Rape is torture, you're actually torturing someone."

Watch BBC3's Rape on Trial via the [BBC iPlayer](#)

How to seek help?

Both men and women can be raped. **Approximately 85,000 women and 12,000 men** are raped in England and Wales alone every year.

If you have been affected, the following organisations can help:

The police

Rape crisis centres provide crisis and long-term counselling, support and advocacy for women and girls of all ages who have been sexually assaulted or raped.

Rape Crisis England and Wales: Free helpline: 0808 802 9999

Rape Crisis Scotland: Free helpline: 0808 801 0302 Phone (between 6pm and midnight)

Rape Crisis links for boys and men who have experienced sexual violence

Sexual Assault Referral Centres (SARCs). To find your nearest SARC, call the NHS 111 non-emergency service, contact your local GP or Accident and Emergency hospital, or visit the NHS Choices website.

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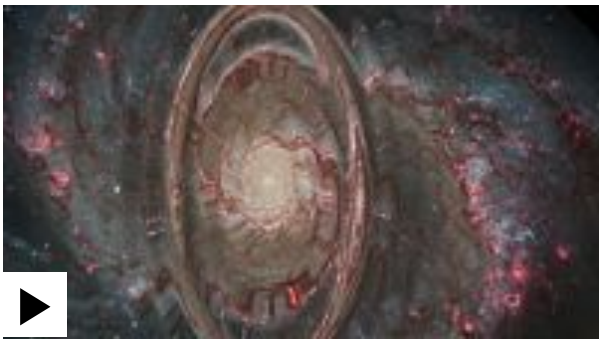
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