



SEXUAL MISCONDUCT

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Sexual Misconduct relates to all unwanted conduct of a sexual nature and ranges from indecent exposure (flashing), pinching, embracing, groping and kissing, to rape and serious sexual assault which involves penetration without consent. This includes, but is not limited to:

- Sexual harassment as defined by Section 26(2) Equality Act 2010;
- Assault as defined by the Sexual Offences Act 2003;
- Rape as defined by the Sexual Offences Act 2003;
- Physical unwanted sexual advances as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017;
- Intimidation or promising resources or benefits in return for sexual favours as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017;
- Distributing private and personal explicit images or video footage of an individual without their consent as defined by the Criminal Justice and Courts Act 2015.

### Consent

A person consents to a sexual interaction if two main factors are present:

- They have the freedom to choose to engage in the interaction and;
- They have the capacity to make that choice.

Consent cannot be assumed on the basis of a previous sexual experience or previously given consent, and it may be withdrawn at any time. Consent must be enthusiastic, ongoing, and clearly communicated.

Freedom to consent is not present when an unwilling participant submits as a result of the exploitation of power, coercion or force, regardless of whether there is verbal or physical resistance. Exploitation of power happens when someone takes advantage of their real or perceived power dynamic and coercion or force includes any harm or threat of harm which makes the individual fearful of immediate or future harm and thereby making they feel they are compelled to engage in a sexual act.

Capacity to consent is not present when someone is in a state of unawareness such as being asleep, unconscious, semi-conscious, or a state of intermittent consciousness, or any other state that means they are unaware that a sexual act may be occurring. Incapacitation may also occur on account of a mental or developmental disability, as the result of alcohol or drug use or being too young to legally provide consent (underage) or a combination of the above. Sex with someone who doesn't consent is rape, and a very serious crime under UK law. It does not make a difference whether the people know each other or not, or what relationship they have.

Examples of sexual misconduct might include

- Pressuring or forcing someone to do something sexual;
- Unwanted contact of a sexual or intimate nature, including intercourse, kissing, touching etc.
- Sending sexually explicit texts and images to someone without their consent;

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- Unwanted sexual attention – such as ‘wolf-whistling’ or making unwanted remarks of a sexual nature;
- Engaging in sexual acts with someone who is too drunk, or too intoxicated, to give consent;
- Engaging in a sexual act with someone who is asleep or unconscious;
- Inappropriately showing sexual organs to another person;
- Repeatedly following another person without good reason.

JCA takes all instances and allegations of sexual misconduct very seriously, and recognises that such conduct is unlawful. If you experience or witness any sexual misconduct, it is important that you speak up. You can call the police on 999 and report it, or you can contact the Designated Safeguarding Officer (DSL) on [safeguarding@jca.ac.uk](mailto:safeguarding@jca.ac.uk) or speak to a member of staff that you feel comfortable talking to. You can also use the JCA ‘Report and Support’ service.