



## **Sexual Relationships and People with an Intellectual Disability**

### **Age of Consent and Sexual Offences**

Generally speaking sexual relationships between adults are lawful as long as they are consenting relationships. Where consent is absent a sexual offence may have occurred.

The Criminal Law (Sexual Offences) Act 2006 established a common age of consent to sex at 17 for males and females whether it is a heterosexual or homosexual relationship. A person under the age of 17 may agree to but cannot consent to having a sexual relationship.

If a person is convicted of having sex with a minor s/he may be imprisoned for up to ten years in the case of a 15 or 16 year old, or up to life for a child under the age of 15. A girl aged less than 17 years cannot be convicted of an offence by having sexual intercourse.

### **Sexual Offences and people with intellectual disabilities**

A person who attempts to or has sex with a person with another person where consent is withheld may be prosecuted under the legislation discussed above. However there is a specific law dealing with the regulation of sexual relationships and people with intellectual disabilities.

The Criminal Law (Sexual Offences) Act 1993 makes it an offence to have or attempt to have sexual intercourse with a mentally impaired person unless they are married.

# Sexual Relationships

Mentally impaired is described as “a person suffering from a disorder of the mind, whether through mental disability or mental illness, which is of such a nature or degree as to render a person incapable of living an independent life or of guarding themselves against serious exploitation”.

Other sexual acts are not criminal offences under this section even if one of the parties is mentally impaired. The legislation also does not apply where sexual intercourse occurs between married people even if one of the parties is mentally impaired. It is unclear what would happen if the person acquired a mental impairment after marriage.

## Changes to the Law

The Law Reform Commission stated that the section could be a potential breach of Article 8 of the European Convention on Human Rights in relation to respect for private life.<sup>1</sup> It was also stated that consideration needed to be given to balancing the protection of vulnerable adults and allowing people to exercise their human rights.

At present there is no legal basis for non-therapeutic sterilisation for people with intellectual disabilities. The Law Reform Commission has recommended that for sterilisation to be performed without consent where there is no risk to the health of the person, the order of the High Court should be sought.

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<sup>1</sup> VULNERABLE ADULTS AND THE LAW (LRC 83 - 2006)