



# MYTHBUSTING, AND A CALL FOR REFORM

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# The rights

- Everyone has right to sexual expression, relationships of their choosing, and fun
- Restrictions need very strong reasons and must be proportionate to their aims (eg protecting children)
- People who need support in accessing their rights may be entitled to it
- Even people who lack capacity have the same human rights as everyone else

# Problems with criminal law

- Myths, problems for healthcare workers trying to support their clients, and weak interpretation of the law.
- Current criminal law does not comply with either the right to consensual sexual expression in private or the ban on disability discrimination
- examples: cannot legally give sex education to deafblind adults; and the 'mental disorder' offences

# Claire's Guide:

- Adult? Non-carer? Communicate? Consents? Capacity? Private? OK!  
Any of those missing? Possible crime!
- Policy: 'None of the measures in the Act are [sic] intended to interfere with the right to a full and active life, including a sexual life, of people with a mental disorder who have the capacity to consent.'
- But needs Guidance and reform of the 'mental disorder' offences-campaign!

# Some of the myths about sex, sexual expression, disability and difference

- 'Recent cases make it impossible for professionals to support people's sexual expression if the client wants to visit a sex worker/paid provider of services'
- 'The Supreme Court has made the law on consent much more difficult, let's just not get involved'
- 'It's "illegal" to support people's sexual expression if they have a 'mental health condition''
- 'People who lack mental capacity can't have sexual expression/can't be supported in sexual expression'

# The one about consent

- JB- Supreme Court decision
- Resolving important and difficult questions?

# The one with the sex workers

- Trial judge- very positive, lots of quotes
- Court of Appeal- causing consternation, but actually very limited
- What it does
- What it doesn't do

# The reform of mental health law

- We might have much better law by 2030(!)
- Ripple effect into mental capacity law



# A call for reform

- (apart from many offences specifically related to sex work)
- current law so complicated that people do not realise how much assistance with sexual expression is actually legal. Sex workers can unwittingly commit crimes.
- Some aspects of age-related crimes prevent sex education of people with complex disabilities eg deafblind adults
- Communication-related disabilities: presumed sex crime
- Capacity law: criminalises longstanding relationships; inconsistent judging; surveillance; carers and healthcare workers understandably worried by potential criminalisation; clear evidence that the presumption of capacity is not being applied properly
- The importance of touch and intimacy

# Me!

- [Clairedethan@me.com](mailto:Clairedethan@me.com)
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- [Outsiders.org.uk](http://Outsiders.org.uk)
- [Www.TLC-trust.org.uk](http://Www.TLC-trust.org.uk)
- Sex, sexuality and sexual expression toolkits: SHADA,, OU Sexuality Alliance <https://www.open.edu/openlearn/talkaboutsex>