

# Correspondence

## Against the Stream: lowering the age of sexual consent

I read with unease the Special Article by Philip Graham in the August 2018 edition of the *BJPsych Bulletin*. His counter arguments seem insufficient. He argues that existing law has had no effect on young people’s sexual behaviour over the previous 50 years, but doesn’t take into account changing social, cultural and religious attitudes over that period. He references a survey of American school students who failed to cite the law as a reason for abstinence. However, conservative beliefs and promotion of abstinence before marriage are likely to be much more significant factors in the USA than in the UK. With respect to arguments about physical and physiological maturity, these seem largely irrelevant either way as these attributes bear no firm relationship to cognitive maturity.

Regarding cognitive and emotional maturity, while those aged 14 to 16 may be able to recognise the risks of sexual activity, as he points out himself, their ability to evaluate the risks can be compromised by other factors.<sup>1</sup> Life experience and perspective are also imperative when making potentially life-changing decisions; an extra two years in adolescence is a significant amount of time. Graham’s assertion that the law is unlikely to be used as a reason to refuse consent seems speculative, and even if only a small proportion feel empowered that is surely important.

In my opinion, the most worrying aspect of lowering the age of consent is the legalisation of adults of any age having sexual relationships with children under 16. Consider a 50 year old with a 14 year old; it is obvious that the power dynamic is unhealthy even if the person isn’t in a trusted position. Worse still is the risk of greater difficulties in prosecuting cases of vulnerable children involved in prostitution, sex abuse rings or forced marriage.

We also have to consider children below 14. It is currently an offence for a person (A) aged 18 or over to intentionally engage in sexual touching of a child under 16. Where the child is aged 13 to 15, the prosecution must prove that A did not reasonably believe that he was 16 or over (Sexual Offences Act 2003). If the age of consent was 14, presumably prosecutors would have to prove that A did not reasonably believe that the child was 14 or over. Logically, that would likely lead to claims that people thought children under 14 were at or above the age of consent.

To address Graham’s arguments in favour of lowering the age of consent, he himself points out that where both parties are below the age of consent there is little likelihood of prosecution. There is also no current reason that 14- to 16-year-olds cannot access sexual health services, as is made clear by the National Health Service (<https://www.nhs.uk/live-well/sexual-health/>). Similarly, sex education is already compulsory from the age of 11 (<https://www.gov.uk/national-curriculum/other-compulsory-subjects>).

In conclusion, I see no compelling argument to lower the age of consent; we should instead be taking inspiration from other countries like France that are strengthening their existing inadequate laws.

**Jennifer Smith**, Consultant Liaison Psychiatrist, Mersey Care NHS Foundation Trust, UK; email: [Jennifer.Smith@merseycare.nhs.uk](mailto:Jennifer.Smith@merseycare.nhs.uk)

<sup>1</sup> Steinberg L. Does recent research on adolescent brain development inform the mature minor doctrine? *J Med Philos* 2013; **38**: 256-67.

doi:10.1192/bjb.2018.91



© The Author 2018. This is an Open Access article, distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives licence (<http://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is unaltered and is properly cited. The written permission of Cambridge University Press must be obtained for commercial re-use or in order to create a derivative work.

**Author reply:** I quite understand Jennifer Smith’s concern. It seems, on the face of it, silly to suggest that the age of consent be reduced when the great majority of people, including me, think it is unwise for adolescents to engage in full sexual intercourse at least until their late teens. But, once one has considered how the existing law is flouted, it no longer seems at all silly. The idea that changing the law will encourage 50-year-old men to seduce 14-year-olds rather than 16-year-olds seems highly improbable. The reality is that the best safeguards against premature sexual activity are those that emphasise much better sex education for children and young people who would thus be empowered to say ‘no’. And lowering the age of sexual consent would allow parents and teachers to engage in imparting meaningful information earlier than is currently the case.

**Philip Graham**, Emeritus Professor of Child Psychiatry, University College London, UK; email: [pjgraham1@aol.com](mailto:pjgraham1@aol.com)

doi:10.1192/bjb.2018.100



© The Author 2018. This is an Open Access article, distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives licence (<http://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is unaltered and is properly cited. The written permission of Cambridge University Press must be obtained for commercial re-use or in order to create a derivative work.