

Abuse of Positions of Trust within Sport

Background

What is Abuse of a Position of Trust?

Sexual offences legislation already provides that any sexual activity involving children under 16 is unlawful. The primary motivation for legislation which addresses the abuse of positions of trust is the need to protect young people aged 16 and 17 who, despite reaching the age of consent for sexual activity, are considered to be vulnerable to sexual abuse and exploitation, in defined circumstances. This includes sexual activity and relationships with adults who hold a position of trust, responsibility or authority in relation to them and, as a result, have a considerable amount of power and influence in their lives. The law defines **specific roles** and **settings** where sexual activity between 16 and 17 year olds and those in positions of trust, responsibility or authority constitutes a criminal offence.

Examples of specific roles:

- teachers
- Connexions personal advisors (England only)
- foster carers

Examples of specific settings:

- educational institutions
- residential care homes
- hospitals
- youth offender institutions

People in these roles or working in such settings may well be in positions of trust, will normally have power and authority in a young person's life, and may have a key influence on their future. They will have regular contact with the young person, and may be acting in loco parentis.

The sports context

This legislation does not include sports roles (e.g. coaches, instructors or helpers) or sports organisations and settings (e.g. clubs, leisure facilities or events) within these definitions. Thus, at present, an abuse of a position of trust within most sport contexts will not be illegal, although there may be circumstances in which the law does apply to sports coaches - for example if they are employed by and operating within a school.

NSPCC's view is that because of the vulnerability of young people and the particular circumstances of sport that the legislation should be extended to roles and settings within sports. Irrespective of this, NSPCC recommends that sports bodies work to the principles behind the legislation. They should put in place codes of ethics and conduct to which individuals are tied, which define acceptable and unacceptable behaviour, and which clearly include any abuse of positions of trust as described above. Breaches of these codes should be addressed through complaints and disciplinary procedures.

It is important also to recognise that under the Safeguarding Vulnerable Groups Act/Order there are already relevant provisions to consider. Sports settings deemed to provide regulated activity for the purposes of the legislation must refer an individual to the Independent Safeguarding Authority (ISA) if they consider the individual has harmed, or to be a risk to, a young person while working in a regulated position. That individual may ultimately be barred by the ISA from working with children. Governing bodies and other sports organisations should take disciplinary action in situations where an adult in a position of authority has abused their position of trust by having sexual contact with a 16 or 17 year old.

The nature of the problem in sport

Those in authority in sport can have substantial influence over young people dependent on the nature of the activity. In situations where young people are training within competitive sports it is not unusual for young people to train three, four or more times per week. A study undertaken jointly by NSPCC and the Amateur Swimming Association in 2002 examined the relationship between young sports people and



their coaches. “In at the Deep End” showed that where serious abuse occurred within the sport, particularly sexual abuse, it was committed in the majority of cases by male coaches. It was evident from that study that in cases of serious sexual assault there had been a significant process of grooming leading to the abuse. In all the cases studied, the coach concerned had abused the position of trust vested in him through his role.

Since the Child Protection in Sport Unit (CPSU) was established in 2001 it has been made aware of media coverage of prosecutions for abuse within sport. There have been many documented cases in the UK where sports coaches and others in positions of trust have abused their position and influence with young people to initiate sexual activity in circumstances that were either clearly non-consensual, or where the young person was in no position to give consent freely, given the power/influence imbalance between them and the adult concerned. A significant number of people in positions of responsibility in relation to children in sport have been convicted of child sexual abuse. Prosecutions for abuse include individuals from a wide range of sports.

Managing abuse of positions of trust within sport

The CPSU has had a number of enquiries from sports based groups where concerns were raised about coaches/instructors (those in authority positions) who had developed relationships with young people they had been coaching for some time, which could be viewed as abuse of trust situations. As there is currently no offence of abuse of trust legislation relating to sport, none of the situations presented to CPSU resulted in legal action although referrals to police and social services were made as the sports governing bodies concerned felt the action was extremely serious. This left the sports governing bodies dealing with these issues as poor practice under breach of code of conduct and hence dealing with them on a disciplinary basis. In England there are Local Authority Designated Officers in place that can support sports governing bodies to manage these cases appropriately and encourage referrals to the Independent Safeguarding Authority.

Why should the “Abuse of Trust” by those in authority positions in sport be addressed by Governing Bodies and other organisations?

Sport is an important aspect of many children’s lives and development. Taking part in sport helps young people to develop social skills, learn about risk-taking in a safe environment, develop self-esteem and learn to use their own initiative.

The vast majority of children derive huge benefits from participation in sport and are a credit to the many dedicated volunteers and professionals who make this happen and who strive for a safe and caring environment in which young people can play and enjoy sport.

It is the view of NSPCC that though the abuse of positions of trust legislation is not applicable to the sports sector, governing bodies, clubs and other sports organisations should extend and adopt the same principles through their codes of behaviour, rules and disciplinary processes. A compelling evidential case exists for giving young people aged 16 and 17 years in sport the same protection as 16 and 17 years olds in specified settings, by requiring coaches and others in authority roles to adhere to standards of behaviour that reflect the principles of the legislation. Sports organisations also need to ensure they have procedures in place for referring cases to the Independent Safeguarding Authority where they discipline and remove an individual from a regulated activity as a result of concerns that they have harmed (or could harm) a young person by abusing their position of trust.

Conclusions

In summary there is evidence of a growing number of serious cases of abuse of positions of trust within sport. It should be remembered that research has consistently shown that reported incidences of abuse are much lower than the actual levels. The NSPCC is particularly concerned about risks to young people and has campaigned for extension of the abuse of trust provision to include sexual behaviour with 16 and 17 year olds by those with authority over them. A consensual sexual relationship between a person with authority over the young person and the 16 or 17 year old is never healthy in our view, and can be open to abuse. While it may not currently constitute an actual offence, it conflicts with safeguarding guidance. Such breaches of an organisation’s code of conduct could result in disciplinary action, and potentially to a referral to the Independent Safeguarding Authority.



Recommendations for sports organisations

- Sports codes of conduct and linked disciplinary processes should be reviewed and amended to include wording that supports the maintenance of healthy and positive relationships between sports coaches and young people. The code of conduct should reference the organisation's definition of roles that constitute positions of trust and ban any sexual relationships/activity between adults in those roles and 16 - 17 year olds for whom they are in a position of authority. Suggested wording may be:
“Coaches should ensure they maintain healthy, positive and professional relationships with all athletes. Coaches and others in positions of authority and trust in relation to athletes aged 16 and 17 years must not engage in sexual relationships with them while that unequal power relationship exists.”
- The abuse of position of trust provision should be defined by the nature of the position in relation to the young person and not be contingent on the regularity of contact with the young person in question.
- Safeguarding training for those working with young people in the sporting sector should include material on the issue on abuse of trust and guidance on maintaining appropriate boundaries between adults and young people.
- Child protection/safeguarding and disciplinary policies and procedures should include a requirement for referral to the Independent Safeguarding Authority (ISA) when an individual is deemed to be unsuitable to work with young people.

Recommendations for sports coaches and others in positions of trust

- Ensure that you read, understand, sign up to and comply with the code of behaviour and/or ethics your club, organisation or relevant sports governing body has produced for the role you hold.
- Maintain a relationship with all participants that is appropriate to your role and reflects positively on the club or organisation you work or volunteer for.
- Whether or not the code explicitly refers to positions of trust (and what would constitute breach) as someone in a position of authority you should not seek or engage in sexual activity with 16 or 17 year olds for whom you are responsible.
- If you think that a young person's behaviour indicates that they are seeking to develop or engage in an inappropriate relationship with you, immediately bring this to the attention of your club or organisation's Welfare Officer, designated safeguarding lead or manager.
- Be careful not to respond to the participant in any way that could be interpreted as encouraging the young person concerned. Make a written record of your concerns and relevant details.

Advice for anyone concerned about the possible abuse of a position of trust

- If you suspect that an abuse of a position of trust has occurred, is occurring or may occur you should report this to the Welfare Officer or designated safeguarding lead for the club or organisation in line with the complaints or safeguarding policy and procedure.
- Make a written record of your concerns and relevant details.
- If you feel your concern has not been dealt with appropriately, or there is no welfare or safeguarding lead, you can consult with the Local Authority Designated Officer (LADO - England only) whose details should be available through your local authority's Children's Social Care Department and whose duties include responding to concerns about potential breaches of positions of trust.
- Alternatively, you can seek advice from the 24 hour NSPCC Helpline – 0808 800 5000.

Appendix A: examples of cases in sport

Appendix B: relevant research

Appendix C: relevant legislation

Appendix D: additional guidance



Appendix A: Case examples in sport

Abuse of under 16s

The following cases are examples of situations where prosecutions have been successful as the young people were under 16 years of age and are illustrative of the kinds of concerns being brought to CPSU by sports governing bodies.

- A coach who assaulted two promising young female players (aged 15) was jailed for five and a half years. At his trial, evidence was given that the abuse took place over a two year period. On one occasion the coach told his victim “I can’t wait until you are legal. I can’t wait until you are sixteen” In passing sentence the judge said: “you were in a position of trust as a coach and used that opportunity to commit these offences against these girls....you were trusted by them, you were trusted by their parents. You controlled her (the victim) by using her ambitions as a means of exercising that control”. His behaviour was described as “controlling, grooming and predatory”.
- A former Olympic coach was convicted of sexually abusing a young female (aged 15) he was training. The jury heard evidence that the sexual abuse was carried out under the pretence of being part of the young person's training regime.

The cases below are some examples from the CPSU advice service and illustrate the issues being raised by Sports Governing Bodies and reflect two elements of the sexual offences legislation; namely “Abuse of Trust of Position: Sexual Activity with a Child” and “Abuse of Position of Trust: Causing or Inciting a Child to Engage in Sexual Activity”. These examples have been anonymised to protect those involved.

Abuse of position of trust: sexual activity with a child

- A National Governing Body (NGB) received a number of complaints against the National Coach by members of an under 21 national squad. They alleged the coach was exploiting his position by having sexual relationships with team members. When challenged by the sport, the coach admitted this and internal disciplinary action was taken. He was not prosecuted however as all those involved were over 16 and under 18. If he had been a teacher in a position of responsibility he would have committed an offence.
- A parent complained to a governing body that a coach had been having sex with their child (female aged 16 when age of consent was 17 in Northern Ireland). The PSNI decided to take no further action but advised the sport that he should no longer coach children. The individual admitted to breaching the sports code of conduct and he was banned from that sport.
- A sports coach (mid 20's). The coach was charged with the rape of a 17 year old. He was not convicted but admitted having consensual sex with the girl, which is not illegal under the current legislation. The Sport's body was concerned the individual had admitted to breaching their code of conduct & banned him from the sport for his actions. He subsequently challenged their decision on the grounds that he had not been convicted of the more serious charge of rape.
- A female Leader: A sport received a complaint that a female leader had a sexual relationship with a 17 year old male player. Local social services were informed but were not interested in pursuing the case due to the age of the young person. An internal investigation was then begun and the coach was suspended pending the outcome of the investigation.

Abuse of position of trust: causing or inciting a child to engage in sexual activity

- A Sports Governing Body received a complaint from a parent about a sports coach (mid 40's) who had been grooming their 17 year old via text messages (the young person had copies of the explicit texts). The coach had also been asking another young person to have a “relationship”. Social services were informed but took no action due to the age of the young person. The coach was banned from their sport. He has since left this sport but has obtained another sports coaching award from another sport and began coaching another female junior team (he has subsequently been removed from that club).
- A Sports Governing Body contacted CPSU about a sports coach (mid 30's) who they discovered had been grooming those he was coaching via internet chat rooms. The Sport has since banned the coach from their sport.



- A Sports coach (early 30's) was charged with rape and sexual grooming of a 16 year old who he met when she was 14. He was not convicted of this offence but admitted to other concerning behaviour and inappropriate contact with the child. The Sport considered the individual to have breached their code of conduct and banned him from the sport.

In these latter examples the young person was 16 or 17 years old. In some cases the sporting organisation was sufficiently concerned about the matter to refer it to Police. However as the young person involved was over the age of consent (which is over 16 years of age in the UK), no action could be taken as no offence had been committed under the law as it currently stands. Had such a situation arisen within an educational setting, this would have amounted to an abuse of trust under the Sexual Offences legislation and a criminal prosecution considered.

Appendix B: Research

A study of Canadian athletes by Kirby and Greaves in 1996 showed that 21.8% of athletes had had sexual intercourse with persons in positions of authority in sport. 8.6% reported that this was forced sexual intercourse or rape. A Danish study by Toftegaard found that 25% of sport college students either knew of or had experienced sexual harassment by a coach. In this study the attitudes and behaviours of coaches were analysed. 275 coaches were questioned about harassment and abuse. Six percent of them were unsure if having a relationship with an athlete under the age of 18 was "completely unacceptable" and 20% reported they had had a sexual relationship with one of their athletes over the age of 18. Six of the coaches interviewed reported having had a sexual relationship with an athlete under the age of 16.

Bringer, Brackenridge and Johnston (2002) conducted focus groups with coaches who worked with Swimmers between the ages of 13 and 17 regarding their perceptions of appropriateness of sexual coach-athlete relationships. Sexual relationships with swimmers under the age of 16 were unanimously viewed as inappropriate. However, for athletes over 16, opinions ranged from "totally inappropriate" through to "It is a question of civil liberties". This range of beliefs highlights the need to have clear guidelines on what is and what is not an appropriate coach-athlete relationship.

Appendix C: Legislation

The offence of Abuse of Trust was introduced into the criminal law by the Sexual Offences (Amendment) Act 2000, which came into effect on 1 January 2001. The offence criminalised *consensual* activity between adults (over 18 years of age) and children (aged 16 and 17 years) where the adult holds a position of trust or authority in relation to certain designated positions and establishments such as a child in a residential home or detention centre or in an educational establishment.

Following a comprehensive review of sexual offences legislation, the abuse of positions of trust provision was re-enacted as part of the Sexual Offences (Amendments) Act 2003 (in Northern Ireland the provisions were again re-enacted in the Sexual Offences (NI) Order 2008 which codified in one statute NI sexual offences law). As part of the review which led to the introduction of new legislation, the scope of the offence of abuse of trust was extended. It now prohibits sexual activity in defined circumstances where an adult regularly looks after a child on an individual basis or where the adult, in the course of his/her duties has regular, unsupervised contact with a child, for example Connexions workers (in England).



Appendix D: Further information and support

Child Protection in Sport Unit: www.thecpsu.org.uk; cpau@nspcc.org.uk; 0116 2347278.

NSPCC Helpline: 0808 800 5000.

Caring for young people and the vulnerable? Guidance for preventing abuse of trust- Home Office
<http://www.ccpas.co.uk/Documents/Abuse%20of%20Trust.pdf>

NSPCC Northern Ireland briefing paper prepared for the Department of Culture Arts and Leisure
Committee on child protection in sport and the extension of abuse of trust provisions to sports coaches
June 2010

Consultation on the Scope and Implementation of the Sexual Offences Act 2003 in relation to sports
coaches 2 December 2004–21 March 2005 Home Office and DCMS

Young People and Sport - August 2009 DCAL

The Report of the Ad Hoc Committee of the Northern Ireland Assembly on the Draft Sexual Offences
(Northern Ireland) Order, January 2008

Working within the Sexual Offences Order 2008 Northern Ireland Office

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