



## ABUSE OF POSITIONS OF TRUST IN 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
- 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

The Sexual Offences 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. Therefore, 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.

The view of the NSPCC 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 Disclosure and Barring Services (DBS) 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 DBS 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.

Since the NSPCC 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 NSPCC 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 DBS.

### **Why should NGBs address “Abuse of Trust” by those in Authority?**

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 although the abuse of positions of trust legislation is not applicable to the sports sector, NGBs, clubs and other sports organisations should extend and adopt the same principles through their laws, codes of conduct, 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 DBS 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, in the NSPCC’s view, is never healthy 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 DBS.

### **Recommendations for Sports Organisations**

- Sports Codes of Conducts and linked disciplinary processes should be reviewed and amended to include wording that supports the maintenance of healthy and positive relationships between sport 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 years 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.
- Safeguarding and disciplinary policies and procedures should include a requirement for referral to the DBS when an individual is deemed to be unsuitable to work with children or young people.

#### **Recommendations for Sports Coaches and others in Positions of Trust**

- Ensure that you read, understand, sign up to and comply with the codes of conduct, behaviour and/or ethics your club, organisation and NGB have produced for the role you hold.
- Maintain relationships with all participants that are appropriate to your role and reflect positively on you and the club or organisation for which you work/volunteer.
- 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. If you are concerned, keep a written record of your concerns and any relevant details.

### Advice for those concerned about 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**



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