



Position of Trust and Sport - Scotland

As of 28 June 2022, the law in England and Wales states that those in a position of trust in sports organisations, such as a coach, cannot legally have a sexual relationship with young people they look after, under 18 years old. Although the Scottish Government undertook a consultation exercise in 2019 in which they asked for views on whether the definition of a 'position of trust' in section 42-45 of the Sexual Offences (Scotland) Act 2009 should be extended, there has not yet been any legislative change to extend the existing law to cover sports coaches in Scotland. This is a devolved area of government and so the provisions introduced in England and Wales do not apply in Scotland.

However, sports organisations continue to have a “duty of care” towards children and young people, and this means that they must do what is reasonable for the purpose of safeguarding or promoting the child’s welfare. Those who hold positions of trust in sport can have a positive influence on the welfare of a young person, by providing role models or someone to turn to if they have a concern. It is important to both have clear boundaries in place for the safety of children and young people to ensure exploitation cannot take place and to embrace a right-based approach to children in sport. Article 19 of United Nations Convention on the Rights of the Child (UNCRC) enshrines children’s right to be protected from all forms of violence, abuse or neglect. The Scottish Government is working to incorporate the UNCRC into Scottish law placing legal duties on public bodies and ensuring that children’s rights are legally protected.

Despite the lack of legislative change in Scotland, sports organisations can clearly define within their codes of conduct that children have a right to be safe from all forms of abuse and neglect whilst in the care of parents and others who care for them (UNCRC – Article 19) including, in our view, sports coaches who are in positions of trust. Staff have a responsibility to maintain healthy and positive relationships with young people which are appropriate to their role and reflect positively on the club or organisation they work or volunteer for. Relationships between those in positions of trust and young people in sport should be supportive, positive and aimed at improving the young person’s skills, and progress. Someone in a position of authority should not seek to or engage in sexual activity or sexualised communication or image sharing (including via social media) with 16- or 17-year-olds for whom they are responsible.

Children 1st Child Wellbeing and Protection in Sport supports the campaign by NSPCC to ‘Close the Loophole’ and would welcome action by the Scottish government to uphold children’s rights to be safe from harm by amending the Sexual Offences (Scotland) Act 2009 to include sports coaches.