

**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**

The NSPCC in Northern Ireland is grateful to the committee for the invitation to put forward our position on the extension of the abuse of trust provisions within the Sexual Offences order to include sports coaches.

The purpose of this paper is to provide MLAs with an overview of child protection in sport, NSPCC's role and information specifically about the abuse of trust provisions and possible extension to sport.

### **Key Points in relation to Abuse of Trust:**

- The NSPCC seeks to safeguard children and to prevent those with influence or power over children and young people by virtue of their employment, or their position of trust or authority, from abusing that position by sexually abusing young people and to ensure that those that do abuse positions of trust receive an appropriate legal response **(NSPCC Policy Position, October 2008)**
- The NSPCC believes that sport plays an important and positive role in the lives of many children and young people, more than 75% of 8 – 18 year olds play sport outside of school according to DCAL<sup>1</sup>. It has obvious health benefits and helps develop social and life skills. It is important that all those involved in sport do whatever possible to create and maintain safe, positive sporting environments and experiences to ensure all children are safeguarded and protected.
- The current legislation is designed to protect 16 and 17 year olds “to engage in sexual activity, which would not be criminal except for” the perpetrator’s “position of trust in relation to the victim”. This provision is distinct from legislative provisions which seek to protect children under the age of 16. The definition of a “position of trust” does not include sports coaches within this broad definition.
- As the offence of abuse of trust does not extend to sport, none of these situations presented to CPSU in the course of providing an advisory service can be resolved by legal means. However, referrals to police and social services have been made on occasion as the sports organisations concerned felt the action was serious enough to warrant this.

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<sup>1</sup> Young People's Behaviour and Attitude Survey, DCAL 2009

## **Introduction**

Children and young people under 18 have a particular need for protection from sexual abuse and exploitation. If an adult is in a position of authority, influence or trust over children and young people the NSPCC considers it inappropriate for them to become involved in a sexual relationship with a young person under the age of 18, even where that young person is over the age of consent, (i.e. 16 years). This is recognised by various parts of the law relating to sexual offences, child protection and legislation covering vetting and barring arrangements.

The most recent analysis provided by the Department for Culture, Arts and Leisure shows that 75% of children and young people aged between 8 and 18 years played sport outside of school while 59% of them belonged to a team or sports club. **Applied to the Northern Ireland population as a whole this means an estimated 205450 children and young people play sport outside school and 161600 belong to a team or sports club.** This puts the sports sector second only to education in relation to adult contact with children.

Sport is an important aspect of 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 who make this happen and who strive for a safe and caring environment in which young people can play and enjoy sport.

There is limited research available into the nature and extent of child abuse within sport. 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.<sup>2</sup> A Danish study by Toftegaard<sup>3</sup> 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.

## **What is Abuse of Trust?**

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

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<sup>2</sup> Kirby, S and Greaves, L (1996) *Foul Play: Sexual Abuse and Harassment in Sport*

<sup>3</sup> Toftegaard, J (1998) *The Forbidden Zone*, and unpublished MA thesis, Institut for Idræt, Copenhagen, Denmark

2001. The legislation seeks to provide protection “for young people aged 16 and 17 who are considered to be particularly vulnerable to exploitation by those who hold a position of trust or authority in their lives”<sup>4</sup>

The offence criminalised sexual activity between adults and children (aged under 18 years of age) 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 in England and Wales, the abuse of trust provision was re-enacted as part of the Sexual Offences Act 2003. 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.* The provisions were again re-enacted in the Sexual Offences (NI) Order 2008 which codified in one statute NI sexual offences law.

During the passage of the Sexual Offences (NI) Order 2008 at Westminster the legislation was subject to review by an ad hoc Committee at the Northern Ireland Assembly. NSPCC provided evidence to this and inter-alia campaigned for the extension of abuse of trust to sports coaches. This was based on both our national and local experience and informed by a view that it would help to strengthen protections for young people and further complement other safeguarding measures. A recommendation from the Committee to the then Secretary of State for Northern Ireland that the abuse of trust provisions should be extended to sports coaches was considered by Paul Goggins MP, Minister of State. He subsequently wrote to the Minister for Culture Arts and Leisure seeking his views in this regard.

### **CPSU in NI**

In 2001 the NSPCC established the Child Protection in Sport Unit (CPSU), which provides sport with a central reference point for concerns, including concerns about abuse of trust. In Northern Ireland this work is funded through a partnership agreement between Sport NI and the NSPCC. Our Child Protection in Sport Advisory Officer works with Sports Governing Bodies to ensure they have in place the appropriate safeguarding policies and practices. This includes training, provision of information, support and best practice advice as well as providing a child protection sports focussed enquiry service to sports governing bodies. In the last year (to 31 March 2010), the CPSU responded to 473 queries, 33 of which were case advice calls requiring in-depth advice. The NSPCC does not currently provide a formal monitoring role in relation to child protection offences within sport but our practice informs us

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<sup>4</sup> The Crown Prosecution Services, “*Legal Guidance: Sexual Offences Act 2003 (updated 14/07/2009)*”

that abuse of trust issues in sport are a significant concern. The NSPCC has an extremely positive working relationship with Sport NI and welcomes the ongoing commitment of staff and officials to safeguarding.

The CPSU monitors media coverage of prosecutions for abuse within sport in Northern Ireland. Since CPSU was established nine years ago, there has been a significant number of people convicted of child sexual abuse in Northern Ireland and the Republic of Ireland who were in positions of responsibility in relation to children in sport. Prosecutions for abuse have included coaches from a wide range of sports. As abuse of trust by sports coaches is not currently an offence under the NI legislation it cannot be effectively monitored to provide a definitive picture. However, NSPCC through CPSU is aware of the extent and nature of sexual offences committed against children and young people. Our current position on the extension of the provisions is informed by evidence from practice from our training and advice work and from the calls we receive from concerned parents reporting inappropriate sexual behaviour within sport by coaches in positions of trust.

The cases below are examples of situations where current ability to prosecute is restricted and are illustrative of the kinds of concerns being brought to CPSU by Sports Governing Bodies or parents of children who have been groomed.

- A National Governing Body (NGB) received a number of complaints against a 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 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 suspended 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 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.

## **Abuse of Trust Provisions in Northern Ireland: Recent Developments**

In March 2009, Paul Goggins MP, at the Northern Ireland Office wrote to the previous DCAL Minister, Gregory Campbell MP MLA, in relation to the Sexual Offences (NI) Order 2008 asking him to consider including sports coaches in the existing categories of positions of trust. He pointed out that DCMS and the Home Office had previously considered and rejected the case for sports coaches' inclusion in similar provisions of the England and Wales Sexual Offences Act 2003. Twenty organisations responded to the DCMS consultation in 2006, sixteen of which were favourable to an extension of the provisions to sports coaches. Initially the DCMS was "sympathetic" however following legal advice and consultation with the Home Office, decided not to proceed. *(An addendum is attached in which the NSPCC addresses the issues raised by DCMS and Home Office at the time of the E&W consultation).*

In January 2010 NSPCC in Northern Ireland published a briefing paper on Abuse of Trust in Sport which was made available to DCAL<sup>5</sup>.

DCAL took forward a consultation in January 2010 working through Sport NI and the NI Sports Forum. A consultative event took place attended by 21 governing bodies of sport. NSPCC asked to attend the event and were invited though were asked not to speak or contribute. The organisers of the consultation made available a number of documents to those attending from sport which included NSPCC's 2007 paper to Paul Goggins, the reasons for the DCMS/Home Office rejection of the proposal and the Ad Hoc Committee recommendation.

### **Conclusion**

In summary, there is evidence of a small number of serious abuse of trust situations within sport in Northern Ireland that have had a significant impact on the victims and which have created significant difficulties for sports governing bodies. It should also be remembered that research consistently has shown that reported incidences of abuse are much lower than the levels of abuse reported. As such, we believe an extension of the law would offer improved protection to vulnerable 16 and 17 year olds.

While definitions for the purposes of sports coaches have been cited as a problem in this debate, NSPCC believes increased regulation in Northern Ireland offers a clear standard by which this could be met. The Safeguarding Vulnerable Groups (NI) Order 2007 has been able to define regulated actively for the purposes of vetting and barring arrangements and we are of the view that a workable definition could be included with the provision of the Sexual

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[http://www.nspcc.org.uk/Inform/policyandpublicaffairs/northernireland/briefings/abuse\\_of\\_trust\\_in\\_sport\\_wdf70532.pdf](http://www.nspcc.org.uk/Inform/policyandpublicaffairs/northernireland/briefings/abuse_of_trust_in_sport_wdf70532.pdf)

Offences (NI) Order to capture sports coaches in the abuse of trust provisions.

Currently if a sports organisation has removed an individual from 'regulated activity' because they have harmed or there is a risk of harm to a member of a vulnerable group they must refer to the Independent Safeguarding Authority so that it can consider whether the individual should be barred from working with children and young people. We believe that the extension of the abuse of trust legislation would act as a deterrent to those who would groom 16 or 17 year olds (as it is in education and care settings) rather than responding in a reactive way after the event and young person has been victimised.

### **Recommendations**

There are a number of recommendations we would make to the Committee dealing with both abuse of trust issues and child protection. These include:

- Further consideration should be given to the extension of the categories for abuse of trust to include others in positions of trust. We welcome the response from the consultees who attended the DCAL event in January which agreed that any extension of abuse of trust being considered should include but extend beyond that of the role of a sports coach into other professions.
- The abuse of trust provision should be defined by the nature of the position in relation to children and young people and not limited to the statutory setting in which the contact may take place.
- We would ask the DCAL committee to support the call to link the abuse of trust legislation to accredited sports coaches working in regulated activity as defined under the Safeguarding Vulnerable Groups (NI) Order. " (i.e. required to undergo an AccessNI check because of their duty to care for vulnerable individuals).
- SportNI and DCAL should consider introducing appropriate methods of collating data on Child Protection concerns dealt with by sports governing bodies to highlight trends to assist in the development and enhancement of child protection and safeguarding.
- SportNI should consider introducing a requirement for funded organisations to ensure training on child protection and safeguarding for all sports coaches who work with children and young people to be a mandatory requirement along with agreeing to a sports specific code of conduct that incorporates breach of abuse of trust as a serious disciplinary offence.
- SportNI and DCAL should consider how they might make links with the current Regional Child Protection Services and the proposed Safeguarding Board for NI to develop a comprehensive safeguarding

agenda within sport in relation to the safeguarding of children and young people.

- DCAL should consider encouraging the introduction of an auditing process to all Arms Length Bodies to link safeguarding requirements to those they fund in a similar way as those introduced by SportNI.

Paul Stephenson: Child Protection in Sport Advisory Officer,  
Colin Reid: Policy and Public Affairs Manager  
Kathleen Toner: Policy Officer

NSPCC Divisional Office  
Jennymount Business Park  
North Derby Street  
Belfast  
BT15 3HN Tel. 028 90351135

## Annex

### **NSPCC Briefing Paper addressing the reasons put forward by DCMS for not extending the abuse of trust provisions within E&W**

#### **SEXUAL OFFENCES ACT 2003 – England and Wales**

In 2005/06 DCMS with the Home Office undertook a consultation on extension of abuse of trust provisions to sports coaches. A total of 20 bodies responded (of which 9 were sports National Governing Bodies) A total of 16 respondents favoured extension. DCMS was also “initially sympathetic”. However, following further dialogue with the Home Office and consideration of legal advice, it was decided, in 2007, not to extend the provisions to sports coaches.

*NSPCC has considered the paper on the E&W Position and would make the following comments:*

#### **Reasons for DCMS/Home Office Decision**

**DCMS** “Any” sexual activity involving children under 16 is already unlawful

***NSPCC** While this is true it is not at all relevant to the current consultation being conducted by DCAL which relates to abuse of trust issues which concerns young people over the age of consent, ie between the ages of 16 and 18 who are not protected currently in a sports setting by this legislation.*

**DCMS** New legislation at the time (i.e. the Safeguarding Vulnerable Groups Act 2006) was deemed to have already increased the protections to children and vulnerable adults by strengthening and making more robust the vetting of staff and volunteers.

***NSPCC** The Safeguarding Vulnerable Groups Act 2006 and NI Order established the Vetting and Barring Scheme. The legislation is highly complex and has been developmental in nature. However as it sits currently, **there is no automatic barring from working with children when abuse of trust type situations arise in sports settings.** Should an abuse of trust issue arise in an education or care setting, the person would be automatically barred from working with children. Importantly as there would be no criminal offence in such abuse of trust there would also be no sex offender notification requirement under the Sexual Offences Act 2003.*

*Conversely, if an argument is made that SVG is a means of enhancing protection in abuse of trust settings, why did the government retain abuse of trust provisions as they relate to education and care setting?*

**DCMS** **The consultation was not considered to have produced clear, sufficient and strong evidence to indicate a significant problem in relation to coaches abusing their position of trust.**

*NSPCC As there is no currently no abuse of trust offence with young people aged between 16 and 18 in sports settings, it is difficult to collect official data on the extent of the problem. What we do know is that in Northern Ireland in 2008/09, 56% of all reported sexual offences were committed against children and young people under the age of 18. 227 of the offences, (21%) were committed against young people over the age of 16 and under the age of 17 years. We know from NSPCC research that reported offences are only the tip of the iceberg as sexual abuse is massively underreported. Through NSPCC's child protection work and in particular through its Child Protection in Sport Unit we have been gathering information on the types of cases which could be considered abuse of trust. In 2009/10, CPSU dealt with 473 enquiries in Northern Ireland on a range of issues and has been dealing with regular enquiries on issues related to abuse of trust. In addition we know that large numbers of young people are involved in sport in NI. YPBAS figures show 75% of children and young people between 8 and 18 play sport outside of school. Applied to the NI population this means 205 450 young people are involved in sport. This figure indicates a very high level of involvement in sport at a junior level which is largely self-regulated. Only formal education settings include more children and young people, consequently protections need to be in place to ensure abuse of trust situations are dealt with appropriately.*

**DCMS** **Community sports coaches would be covered by the Sexual Offences Act if they embarked on a relationship with a pupil receiving education at the school at which the community sports coach was coaching.**

*NSPCC Yes, this is the case but they are not covered when they meet the same pupil outside of the school setting as a sports coach. This is in fact an argument for an extension of the legislation to be extended to sport. It is our intention to ensure children are protected and not the statutory organisation.*

**DCMS** **Relationships of trust are widespread in the community, the work place and the leisure industries.**

*NSPCC This is undoubtedly true however the focus of this consultation is on an abuse of trust within a sports setting. Given the specific nature of the relationship built up between athletes and sports coaches, the amount of time spent together and the power dynamic particularly at elite level, sports environments can be places where young people are particularly*

*vulnerable. NSPCC has always argued that there is scope for extending this legislation to other positions of trust where there is evidence to do so.*

*The question “why sport?” has been asked and in addition to the comments made above it is important to note that after the education sector sport is the largest youth participation activity with the highest level of adult volunteer participation.*

**DCMS** **It was considered that extension of the provisions would prevent genuine relationships from developing.**

***NSPCC** This is not an argument we would accept at all and was clearly not considered when introducing the legislation to apply to teachers and residential workers. Appropriate and genuine relationships can be formed outside of regulated settings. The cases NSPCC deals with are those in which Governing Bodies are seeking advice and these are often serious cases involving the abuse of power and control.*

**DCMS** **There was a perceived risk of criminalising normal relationships and thus contravening human rights**

***NSPCC** Again, this not an argument we would accept given that such provisions apply already in schools and care settings.*

**DCMS** **It was considered that drawing the legislation too widely would prohibit many such relationships and the law could then become unworkable**

***NSPCC** We have suggested a way in which any definition of the legislation can be integrated into developments around accredited coaching awards here. Further work may be required to fine tune this although feedback from discussions in the sports sector indicated support for this and indeed further widening the definition beyond our proposals.*

**NSPCC Policy and Research Unit  
January 2010**

[creid@nspcc.org.uk](mailto:creid@nspcc.org.uk)

# Child Protection in Sport Unit

## Background

The NSPCC Child Protection in Sport Unit believes that sport plays an important and positive role in the lives of many children and young people. In addition to the obvious health benefits, children can gain important social and life skills through involvement in sport. That is why it is important everyone involved in providing sport does as much as possible to create and maintain positive and safe sporting opportunities.

Governing Bodies, sports clubs, sports coaches, parents, guardians and carers all play an important role in protecting children and helping them get the best from sport. SportNI and the NSPCC in 2001 established the Child Protection in Sport Unit (CPSU) in Northern Ireland to work with sports bodies to enable them to fulfil their duty of care and protect children from harm.

### VISION

The CPSU vision statement is “Play Sport Stay Safe - enjoy and achieve”.

### MISSION

To safeguard children and young people in and through sport and lead the way in keeping children safe from harm.

### PRINCIPLES

Sports bodies will have:

- a culture and organisation that prioritises the interests of children and young people
- the knowledge, understanding, values and commitment to promote the rights of all children and young people
- a commitment to empower children and young people by advising them of their rights and how they should be treated
- A commitment to work in partnership with staff, volunteers, parents, guardians and others to increase their knowledge of the theory and practices of safeguarding children.

Government guidance makes it clear that safeguarding children and young people is everyone’s responsibility. There are, however, many organisations that have not seen safeguarding young people as a priority. Until relatively recently this was also the case for a number of sports organisations. However, there has been growing recognition that only when they are free from possible harm are children and young people able to fully achieve their goals through sport. This shift has been as a result of sporting organisations having to deal with incidences of abuse against children in which adults who sought to harm children and young people have used sport to gain access to them.

## Objectives

The CPSU has been working with sports bodies to ensure they have in place the necessary safeguarding policies, practices and guidance. This help ensure preventative steps are taken and when concerns are raised that appropriate action taken. Sports Governing Bodies funded by SportNI now have Safeguarding policies in place and the CPSU is working with them to ensure the implementation of these procedures.

**CPSU works with Sport to ensure:**

- An awareness at all levels of safeguarding issues in sport.

- Consistent and comprehensive standards for safeguarding children in sport are in place. These standards raise awareness and help organisations know what they need to do to protect children involved in sport and to minimise avoidable risks. When implemented fully, the standards should provide parents with increased confidence and peace of mind. Most important of all, they help create safer environments for children, where they can enjoy and get the very best from their involvement in sport.
- Partnerships are established to safeguard children and young people, nationally and locally.
- More governing bodies and sports clubs have Lead Officers responsible for safeguarding.
- Increased capacity and competence to safeguard children and young people through provision of education, training and advice and support to a wide range of sport and leisure organisations. Volunteers/ staff/ parents etc have direct access to advice and support either through the CPSU or their own sports Governing Body. In the last three years (from 1/4/07 – 31/3/10) the CPSU in NI have responded to 1315 enquiries.
- There is a growing culture of safe recruiting practises in sporting organisations.
- There are agreed auditing processes and systems for governing bodies and organisations receiving funding from SportNI.
- More funding organisations and those who hire out facilities expect clubs to have safeguarding procedures in place.
- The development of sports-related child protection resources and support for tutors

#### CPSU works to ensure that Children and Young People

- Are safe from maltreatment, neglect, violence and sexual exploitation in sport.
- Are safe from bullying.
- Continue to enjoy sporting activities.
- Engage in decision-making in sport.

## The Future

Thanks to the commitment of SportNI and Sports Governing Bodies (many on a voluntary basis) over the last nine years much has been achieved. However, there remains a great deal to be done to ensure children and young people achieve their full potential in sport in a safe and fun environment. These include:

- The full implementation of the Safeguarding Standards for Sports Governing Bodies which are split into six sections, as listed below:
  - Safe recruitment and selection
  - Effective management of staff and volunteers
  - Reporting concerns
  - Codes of behaviour
  - Sharing information
  - General safety and management of activities
- Accurate monitoring of change and progress.
- The dissemination of the Club framework for safeguarding standards in sport
- The sports sector working in partnership with the statutory sector (in particular the Local Safeguarding Children Board) to demonstrate the positive contribution sport can make.

Paul Stephenson Child Protection in Sport Unit NSPCC  
Jennymount Business Park, North Derby Street  
Belfast, BT15 3HN

028 90355756 or [pstephenson@nspcc.org.uk](mailto:pstephenson@nspcc.org.uk)

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