Sexual Activity and Underage Sexual Activity

Within sport, as within other activities, sexual relationships can and will occur. This section looks at both sexual activity among young people and between adults and young people. Anyone working with children and young people who becomes aware of sexual activity taking place has a duty of care to consider the impact and whether this behaviour is indicative of a wider child protection issue.

There are certain circumstances in which adults working with children and young people should automatically share child protection concerns:

- If the child is, or is believed to be, sexually active and is under 13
- If the young person is currently 13 or over but sexual activity took place when they were 12 or under
- If there is evidence or indication that the young person is involved in pornography or prostitution
- If the 'other person' is in a position of trust in relation to the young person
- If the 'other person' is over the age of 18.

Sexual Activity – Under 13 years:

Children under 13 cannot legally give their consent to any form of sexual activity.

If the underage sexual activity involves a child under the age of 13, or the activity took place when they were 12 or under, the concerns **must** be passed on to the police in line with child protection procedures.

Sexual Activity – 13-15 years

The Scottish Government acknowledges that not every case of sexual activity in under-16s will have child protection concerns, but young people may still need support in relation to their sexual development and relationships. For more information see the National Guidance on 'Under-age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concerns'.

Whilst sexual activity between the ages of 13-15 is considered an offence, even if both parties' consent, the guidance advises that where there are suspicions that underage sexual activity is taking place, a risk assessment of needs should be carried out in line with the Getting it Right for Every Child (GIRFEC) assessment. This may mean that information is collected through fact finding within the sport and then shared with other agencies who are best placed to assess the needs of the young people involved. This will help to ensure that the appropriate response is given.

Consideration should be given to whether the sexual behaviour and/or relationship may be abusive or exploitative and it is vital to remember that young people may not be able to identify this type of behaviour. The facts of the actual relationship should be looked at in order to consider the wider needs of the young person involved (such as consent, safe sex, birth control etc.) and where the person carrying out the assessment of needs doesn't know the people involved very well, information sharing

must be encouraged to ensure that accurate assessment occurs (this may include speaking to education, social work, parents/carers etc.).

Sexual Activity – 16-18 years

The age of consent to any form of sexual activity is 16 for both men and women, so any sexual activity between an adult and someone under 16 is a criminal offence. The age of consent is the same regardless of sex or sexual orientation.

Over the age of 16, sexual activity is legal. However, consideration should always be given to whether the activity was consensual or if the young person has vulnerabilities and related needs which could impact consent.

There should also be consideration given as to whether the 'other person' in the relationship is in a position of authority.

Sexual Activity – Position of Trust

Sexual interactions between adults and young people (16+) involved in sport raise serious issues given the power imbalance inherent in the relationship. Where a young person is of the age of consent, the power of the adult over that young person may influence their ability to genuinely consent to sexual activity. A coach or other adult in a position of trust may have significant power or influence over a young person's career.

A person in a legally defined 'position of trust' who takes advantage of their position to develop an intimate relationship with a child/young person is committing a criminal offence known as 'abuse of trust'. Sports coaching is not currently defined in law as a 'position of trust' in Scotland, but the principle of the law should be followed and captured in club policies.

Sexual activity between adults and young people (16+) involved in sport should be prohibited when the adult is in a position of trust or authority (coach, trainer, official). This should be communicated clearly to adults in such positions at the outset and clear procedures drawn up to enable such a situation, should it arise, to be dealt with promptly, fairly and consistently.

Inappropriate or criminal sexual behaviour committed by an adult will lead to suspension and disciplinary action, which in the case of criminal action will include contacting the police. Sexual activity between adults and children under the age of 16 is a criminal act and immediate action will be taken to report it to the police.

The notion of 'positions of trust' applies as much to young people in leadership roles as it does to adults.

Grooming

Most adults involved in sport with children participate with the aim of providing a fun and positive experience for the children taking part. However, a small minority may use sport as a way of gaining access to children with the purpose of developing inappropriate intimate relationships.

People who commit sexual offences against children often first gain the trust of people around the child, such as their family and friends and those involved in sport. Those who commit offences work hard to portray themselves as caring and trustworthy and they befriend their victims to break down barriers before an offence may be committed.

This is referred to as ‘grooming’. This predatory behaviour is an offence and may be prosecuted separately to direct sexual abuse. Any suspicions of grooming should be reported to police. For more information about grooming please reference the Children 1st briefing on grooming on the CWPS website (see footer).