



Evidencing the Need to Broaden the Position of Trust Legislation to Include Sports Coaches

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Abstract: When an individual is in a position of trust over another person, the age of consent is raised from 16 to 18 in the United Kingdom. Currently, the definition of a Position of Trust is restricted to professions such as teachers, care workers and youth justice workers. Recent high-profile cases have contributed to a growing consensus amongst key stakeholders of the need to broaden this legislation to include other roles, such as a sports coach. This study represents the first investigation into the number of concerns recorded by local authorities across England and Wales regarding sexual relationships between a person who is in a potential Position of Trust which is not currently covered by the legislation and someone who was aged 16 or 17 years old. Freedom of Information Requests resulted in full responses from 142 out of the 172 local authorities. A total of 653 cases were recorded over a 4-year period. The most prevalent of the identified roles were related to sport, however, roles related to religion, youth work, transport and uniform services were also cited. Regional differences regarding the number of cases recorded are highlighted and the implications of these findings are discussed.

Keywords: Position of Trust, Power, Coaches, Legislation.



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1. Introduction

1.1 Evidencing the need to broaden the Position of Trust Legislation

The coach-athlete relationship is a close working relationship and central to an athlete's performance and well-being [1]. This partnership can involve high levels of trust, liking and respect. The relationship needs to be developed and maintained such that it is appropriate and effective [2]. This is particularly important because the influence of a coach can be significant and wide ranging [3, 4]. Recent high-profile cases in the media, national inquiries and empirical evidence have powerfully illustrated that the coach-athlete relationship can, however, be characterised by different forms of abuse such as sexual, physical, emotional and financial [5-7]. This has prompted calls for legislation to be updated to help protect athletes. The purpose of the present study was to contribute to the evidence base regarding sexual abuse in sport to inform these on-going discussions.

1.2 Sexual Abuse in the Coach-Athlete Relationship

Sexual abuse is defined by Kavanagh *et al.*, (2021) as 'Any sexual interaction or conduct of a sexual nature with person(s) of any age that is perpetrated against the victims will, where consent is coerced/manipulated or is not or cannot be provided.' Research in sport has primarily focused on sexual abuse involving children and has evidenced that this is a significant problem in many countries.

For example, in Belgium and the Netherlands, a survey of 4000 adults found that 14% had experienced sexual violence in sport as a child [8]. In a survey of 1529 elite athletes in Germany, 38% reported experiencing at least one sexually violent situation in sport [9]. In Canada, a survey of 6450 14–17-year olds found that 8.8% of the athletes within this sample had experienced sexual abuse in sport [10]. The extent to which these studies can be compared is limited due to differences in the definitions and methods used. Nonetheless, it can be concluded that the sexual abuse of children within the context of sport is a significant global issue.

The present study is focused on the context of the United Kingdom. In the only national survey to date, administered questionnaires to 6124 18-22-year olds regarding their experiences of organised youth sport in the UK prior to the age of 16 [11]. Participants reported experiencing sexual harassment (29%) and sexual harm (3%). Whilst retrospective questionnaires have provided important insights, the extent to which they have been able to capture the current experiences of athletes is limited. As a result, researchers have started to utilise other sources of data.

For example, Rhind *et al.*, (2015) [12] analysed the cases managed by National Governing Bodies over a 12-month period. Of the 652 cases, 124 (19%) were related to allegations of sexual abuse. Hartill and Lang (2018) [13] sent Freedom of Information Requests (FOIRs) to local authorities regarding the number of sport and leisure-related safeguarding cases which had been recorded between April 1st 2010 and March 31st 2015. Of the 1013 cases recorded, 480 (47%) related to allegations of sexual abuse. The alleged perpetrator's role was given as sports coach in 80% of cases. Limited data was available regarding the age of the child. For boys, the age was reported as 0–10 years (24%), 11-17 years (50%) or not known (26%). For girls, the age was

reported as 0–10 years (16%), 11-17 years (57%) or not known (27%). For some cases the child would have been 16 or 17 but the data collected does not allow for any analysis of this specific group. Sexual abuse is defined in a criminal sense by the athlete being under 16 years of age. However, advocates have questions whether this is an appropriate line of acceptability given the power relations at play within the coach-athlete relationship.

1.3 Line of Acceptability

Sexual coach-athlete relationships are often characterised using a dichotomous approach with the line of acceptability being drawn at the age of consent for sexual activity (i.e., 16 in the UK). On the one side of this line, the athlete is under the age of consent and hence the interaction is viewed as child sexual abuse and therefore illegal [11]. On the other side of the line, sexual coach-athlete relationships are viewed as being about adults being free to make an informed choice and having a right to romantic relationships [14,15]. This has been supported by focus groups with coaches in which the consensus for acceptability was the athlete being over 16 [16]. Toftegaard-Nielsen (2001) surveyed coaches and found that the majority (66%) believed that legal CASRs were acceptable [17].

It has recently been argued that the transition from being unacceptable to acceptable may not be as simple as the athlete having their 16th birthday and that there are challenges in relation to a dualistic conceptualisation [18].

1.4 Critical to This Debate is the Concept of Consent with Respect to a Sexual Relationship

Sexual consent represents some form of agreement to engage in sexual activity. Within the legislation a person has consented if they agree "by choice" and that they have "the freedom and capacity to make that choice" [19]. It is these key elements of choice and capacity which come into question when a 16 or 17-year-old is in a sexual relationship with someone who is in a position of power over them, such as a sports coach.

1.5 Position of Trust Legislation

It is well established that people in positions of trust and authority have power over individuals which can lead to coercion and the abuse of power [20]. In the United Kingdom, the age of consent for sexual

activity is 16 years old. However, when an individual is in a position of trust over another person, the age of consent is raised to 18 [21]. Currently, the definition of a Position of Trust is restricted to professions such as teachers, care workers and youth justice workers. Sports coaches are therefore not currently included within the definition of a Position of Trust. Advocates for a change in the law have questioned why a sports coach is not included and whether a coach has any less power over a 16 or 17-year-old than a teacher. Indeed, it could be argued that, in certain contexts, a coach can have significantly more power. The coach's power is derived from a variety of factors including their expertise, experience, and decision-making power [16]. This power can be exerted over all aspects of sport from selection, training and career progression through to funding and deselection decisions [10].

When this issue was reviewed in 2010, the Government stated that 'there did not appear to be sufficient evidence to suggest that children over the age of consent were routinely being abused in a sports setting' and the position of vulnerability was not 'sufficiently strong to justify bringing consensual relationships between 16- and 17 year olds and their coaches within the scope of criminal law' [22]. Recent high profile revelations of sexual relationships between coaches and athletes aged 16 or 17 have fuelled renewed calls for a change in this law from charities, survivors and advocacy groups. In 2017, the then sports minister, Tracey Crouch, said that there was 'ministerial agreement' to include coaches in the law from the Ministry of Justice and the Home Office [23]. However, at the time of writing, the law remains unchanged with the now ex-sports minister saying 'It is about protecting vulnerable people from an abuse of power Frustratingly it seems to have got bogged down in bureaucracy at the Ministry of Justice', the department that owns the legislation [24]. To inform these debates, it is important to compile evidence of sexual relationships between coaches and athletes aged 16 or 17 years old. The present study therefore addressed the following questions:

1. How many cases were recorded across England and Wales between 2014-18 in which sexual activity with a 16 or 17-year-old had been reported that involved a person who was potentially in a Position of Trust that was not currently covered by the legislation?
2. What was the nature of the role of the person in a potential Position of Trust?

3. Are there regional differences in the number of cases recorded?

2. Method

2.1 Data Collection

Government guidance suggests that 'if somebody believes or suspects that a child may be suffering, or is likely to suffer, significant harm then s/he should always refer his or her concerns to the local authority children's social care services' (Department for Children, Schools and Families, 2010, p. 139). The Local Authority Designated Officer (LADO) is responsible for managing these cases. The LADO working in each of the 172 local authorities across England and Wales was therefore identified as a key source of data regarding any concerns which had been reported.

Ethical approval was gained for this research from the Ethics Committee of the lead author's University. All participants provided their informed consent to voluntarily take part in this study. Freedom of Information Request (FOIR) was e-mailed to all LADOs. They were asked how many cases did you manage concerning sexual activity involving a 16 or 17-year-old and a person who was potentially in a Position of Trust that was not currently covered by the Sexual Offences Act (2003)? They were asked to provide the role of the alleged perpetrator as well as the financial year (i.e., April 1st to March 31st) in which the case was reported (i.e., 2014-15, 2015-16, 2016-17 or 2017-18). The region was recorded for each of the LADO responses to enable geographical comparisons. Further details regarding contextual factors, such as the sport, were not collected to help maintain the anonymity of the data. Further demographic information regarding those involved in each case were not yet routinely collected by the LADOs and hence this was not requested. This project was of practical and political importance. It was therefore important to collect data which was insightful whilst ensuring that the task was realistic for LADOs to complete alongside their roles. The data has been embargoed until now, which explains the gap between data collection and the publication of this paper. As highlighted, the benefits of using this method is that the data is longitudinal and geographically sensitive [13].

The FOIR was sent to each of the LADOs in the 172 local authorities across England and Wales. In line with the legal requirement, responses were

received from all LADOs within 20 days. Of these responses, full data were provided by 142 LADOs. This represents a response rate of 83%. A further 5 LADOs provided the total number of concerns but these were not broken down by year as requested and hence these were labelled as partial responses. The remaining 21 LADOs (12%) rejected the request. The reasons given for the rejections were related to concerns around data protection and the amount of work that would be required to retrieve the data.

2.2 Data Analysis

As data were collected at an aggregate level, it was not possible to employ inferential statistics. As such, descriptive statistics were used to summarise the data in relation to the three key research questions related to the number of cases, the potential Position of Trust and regional differences. The number of cases is reported along with trends over the four-year period and the role of the alleged perpetrator is summarised. The specific local authorities are not reported to maintain anonymity. However, the data were aggregated across Wales and the 9 regions in England (i.e., North West, North East, Yorkshire and Humber, East Midlands, West Midlands, East, South West, South East and London). Differences are highlighted with reference to the population of 16- and 17-year olds within each region.

3. Results

The data are presented relevant to the three research questions and are interpreted with reference to related literature.

3.1 Number of Cases

Table 1 illustrates that a total of 653 cases were recorded across England and Wales between April 1st, 2014 and March 31st, 2018. The number of cases was relatively stable between 2014-15 (n=146), 2015-16 (n=136) and 2016-17 (n=145). There was then a marked annual increase of 140% for 2017-18 (n=203). Some local authorities just provided a total number of cases for the period and this was not broken down by year. There were therefore a further 23 cases for which a specific year was not identified.

This recent increase may reflect increased levels of awareness of safeguarding and a willingness to report and record this data rather than an increase in the actual number of cases [25, 26]. This could have resulted from the high-profile coverage of such

cases in the media. However, continued research is required to understand the causes of these trends and whether they continue in future years.

Table 1. Number of recorded cases.

Year	Cases
2014-15	146
2015-16	136
2016-17	145
2017-18	203
Additional cases 2014-18	23
Total	653

Table 2. The potential Position of Trust role.

Role	Cases	%
Sport-related	155	31.3
Faith-related	67	13.5
Transport-related	58	11.7
Youth Work	56	11.2
Scouts	27	5.4
Cadets - Army, Air, Sea, Combined, Uniformed Youth, Police	26	5.2
Charity-related	24	4.8
Performing Arts	20	4
Employment-related	11	2.4
Event organiser (outside sport)	8	1.6
Accommodation - Housing Association, supported living, semi-independent provision	6	1.2
Health worker (outside of care setting)	6	1.2
Uniform services	6	1.2
Private Tutor	5	1
Other	21	4.3
Total	496	100

3.2 The potential Position of Trust

Table 2 summarises the potential Position of Trust role held by the individual against whom a concern had been raised. Roles related to sport, such as a coach, was the initial focus of this research. Indeed, the most frequently cited category was roles related to sport (31.1%, n=155). Sport-related cases were also found to be increasing over time with 24 in 2014-15, 30 in 2015-16, 35 in 2016-17 and 66 in 2017-18.

These figures suggest that this is a significant issue, particularly when compared to the data presented in related research.

Table 3. Number of Cases by Region.

Region	Response rate	Cases 2014-18	Population (16-17-year olds)	Ratio (Cases: Population)
Greater London	28/33 (85%)	106	184234	1:1738
East Midlands	9/9 (100%)	105	102524	1:976
North West	19/23 (83%)	88	158196	1:1798
South East	18/19 (95%)	81	205430	1:2536
Yorkshire and Humber	13/15 (87%)	66	117676	1:1783
South West	12/16 (75%)	74	113092	1:1528
West Midlands	9/14 (64%)	55	131988	1:2400
East	8/11 (73%)	51	134892	1:2645
Wales	16/20 (80%)	17	67076	1:3946
North East	10/12 (83%)	10	54677	1:5468
Total	142/172 (83%)	653	1269785	1:1945

In the study by Rhind et al (2015) [12], which reviewed the cases managed across one year by National Governing Bodies, 124 cases of sexual abuse were recorded. Furthermore, in Hartill and Lang (2018) [13], a total of 480 cases of sexual abuse were reported over a five-year period, which represents an average of 96 cases each year. The data collected in both of these studies concerns all children under 18. In the present study, 66 cases were recorded in 2017-18 which concerned sexual activity involving a coach and an athlete aged 16 or 17. This figure is more than half of the cases reported in Rhind et al., (2015) [12] and more than 2/3 of the cases reported [13]. It therefore suggests that this is a significant issue in relation to the broader efforts to safeguard children against inappropriate sexual activity related to the context of sport.

Whilst the original focus of the research was on sport-related roles, a wide range of other potential Positions of Trust were highlighted. Some of these were of a similar nature to the coach-athlete relationship. For example, the instructor within a performing arts setting was cited in 20 cases (4%). Transport was also highlighted as another important context with 66 cases (9.9%), many of which concerned a driving instructor.

However, a wide range of other potential Positions of Trust were also identified which merit consideration as this legislation is reviewed. Roles related to faith-based settings (13.5%; e.g., faith leader at a place of worship) and a youth worker (11.2%; e.g., activity leader) were also frequently cited. A number of other categories relate to roles in which a uniform is worn such as the scouts, cadets or

other uniform services. Other roles were related to charity or employment (e.g., manager). The category labelled 'other' contains roles which were cited three times or less. These included Language of family and nanny/child minder.

3.3 Regional Differences

The data were analysed and presented with respect to the 9 regions in England as well as Wales (see Table 3). Overall, 126 out of the 172 local authorities (73%) recorded at least 1 case across the reporting period. The highest number of cases reported by a single local authority was 37. The response rates ranged from 64% in the West Midlands to 100% in the East Midlands with an overall response rate of 83%.

There are clear regional differences in terms of the number of recorded cases. The highest number of cases were reported by local authorities in Greater London (106) and East Midlands (105). In contrast, the lowest number of cases were reported in Wales (17) and the North East (10). As a result of the varying populations of 16- and 17-year olds, the size of this population was also calculated for each region such that this could be taken into account [27]. A ratio is displayed for each region that identifies the number of 16- and 17-year olds per case for each region. Overall, one case was recorded for every 1945 16- and 17-year olds across England and Wales. This ratio ranged from 1 in 976 in the East Midlands to 1 in 5468 in the North East.

4. Discussion

This study represents the first investigation into the number of concerns recorded by local authorities across England and Wales regarding sexual relationships between a person who is in a Position of Trust which is not currently covered by the legislation and someone who was aged 16 or 17 years old. The data suggests that there are a significant number of cases which are increasing over time. Sport was found to be a context within which many of these relationships occurred but a range of other settings were also identified.

An extensive body of literature evidences how coaches can have significant power over athletes [1, 3, 20]. It is also clear that such relationships can be characterised by sexual abuse [5,6]. There is also clear evidence that people have experienced sexual abuse as children in the context of sport in the UK [11,12].

Building on this literature, the present study evidences that concerns around sexual activity between a coach and an athlete aged 16 or 17 are being reported and at an increasing rate. There are arguments around liberty and personal choice against changing legislation in this area [14,15]. However, given that the impact of sexual abuse is both harmful and long term for many aspects of an athlete's psychological, social and physical well-being, it seems reasonable to prioritise the safety of this specific group of children. Given the power relations, one could argue that it is difficult to see how an athlete who is 16 or 17 would be able to give the required consent for sexual activity in terms of it being their choice and that they have the freedom to make that choice [7,19].

It could therefore be argued that the Position of Trust offenses within ss 16-19 of the Sexual Offences Act 2003 should be extended to include sports coaches. This would recognise that coaches have an equivalent position of trust over young people as roles such as teachers and care workers who are already included in the legislation. The details would need to be thought through in terms of how key terms such as sport, coach and athlete would be defined within the legislation and hence how regular the interactions would need to be in order to constitute a coach-athlete relationship that was covered by the law.

It is important to acknowledge the limitations of this data. These cases are just an indication of the number of sexual relationships involving a 16-17-year-old and someone in a Position of Trust which is not currently covered by the legislation. The true extent of

such cases is likely to be significantly higher. There are many barriers which may prevent such cases from being recognised, reported and responded to such that it reaches the LADO and is then recorded. Nonetheless, this evidence is still valuable in terms of demonstrating that there are a significant number of these relationships which, despite these range of barriers, have caused sufficient concern for them to be reported to the LADO. The absence of officially recorded data can create a circular argument in that there is no need to change the legislation because there are no cases, but without changing the legislation cases will not be reported because it is not currently illegal. Studies such as this can therefore help to evidence that there are significant concerns related to such relationships.

There is therefore a need to collect and analyse standardised data related to this issue. This can be facilitated by local authorities and National Governing Bodies being required to collect anonymised data using a standardised data collection protocol [12]. This can then be submitted to be aggregated and analysed. This could include demographics related to the athlete (e.g., gender, ethnicity, and disability), coach (e.g., qualification, experience, and gender), the relationship (e.g., length) and the context (e.g., type of sport, competitive level). There also remains scope for interviews with athletes and coaches who have experienced such relationships, focus groups with a range of key stakeholders to capture their perceptions and a larger scale survey to elucidate the prevalence of such relationships.

5. Conclusion

In conclusion, great strides have been made over the past 20 years to safeguard children in sport across the UK. However, the present research shines a light on a potentially vulnerable group of children within sport which are not currently protected by Position of Trust legislation. This study relies on cases recorded by local authorities and hence the true prevalence of such relationships is likely to be significantly higher. This evidence can inform the ongoing review of the Position of Trust legislation to ensure that this loophole can be closed and that decisions are evidence-based and are made in the best interest of children.

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Ethics Approval

Ethical approval has been granted by Institutional Review Board.

Author Contribution Statement

Dr Daniel Rhind - Conceptualisation, formal analysis, designing the methodology, supervision, writing the initial draft of the paper as well as reviewing and editing; **Andrew Fellows** - Methodology, investigation, reviewing and editing the paper. **Emily Davies** - Data curation, investigation, methodology, project administration as well as reviewing and editing the paper.

Informed Consent

Written consent was obtained from all participants.

Conflict of interest

All authors have agreed to publish the present article and declared that no competing interest exists.

Does this article screened for similarity?

Yes

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