

## Sexual Offences: Abuse of Position of Trust

### Background

The Sexual Offences Act 2003 overhauled the law relating to sexual offences. Some pre-existing offences were repealed, others were redefined and many new ones were created. New offences included several involving the concept of an *abuse of a position of trust* and are set out in sections 16 – 19 of the 2003 Act. These offences were designed to protect youngsters under 18yrs (including those over the age of consent ie 16 and 17 year olds) from individuals looking after them in a variety of specified caring, training or supervising roles. For example by virtue of section 21 (5) teachers in a school hold a position of trust in relation to the students they teach.

### Recent Developments

The position of trust offences have recently been extended to specifically include sports coaches. The government recognised that a sports coach can be particularly influential over a child's development, may have unique opportunities for physical contact and often holds a position of power and authority.

In the context of sport, by virtue of new section 22A a person who knowingly coaches, teaches, trains, supervises or instructs a youngster on a regular basis is *in a position of trust* in relation to that youngster.

### Significance for KUGB Clubs and Instructors

The definition of "sport" is clearly wide enough to include all forms of karate and martial arts.

An imprisonable criminal offence is committed by anyone 18 years or over who coaches, teaches, trains, supervises or instructs karate and knowingly engages in sexual activity (as defined in sections 16 – 19) with a *regular* student under the age of 18yrs. It is important to appreciate that this is so *even if the student involved is over the age of consent and has consented*.

Whilst Parliament has recognised the risk of inadvertently criminalising ordinary relationships the new legislation means that an offence is committed even if the instructor and student are of a similar age. Thus an 18yr old karate instructor who enters into a consensual sexual relationship with a 17yr old he or she regularly teaches commits an offence. The relative ages of the parties involved would be a factor that the Crown Prosecution Service would consider when deciding whether to charge and would be relevant to the seriousness of the matter (and thus the level of sentence imposed) in the event of a conviction.

In circumstances where the instructor and student are lawfully married or in a civil partnership, or were in a lawful sexual relationship immediately before the position of trust began, or where there may have been a reasonable belief that the student was over 18yrs of age, no offence would be committed.

Those who coach, teach, train, supervise or instruct students on an *occasional basis* are not likely to fall within the new section 22A definition.

### **KUGB Safeguarding Committee**

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