

# **CHILD PROTECTION AND SPORT**

## **An overview of legislation and sports' obligations**

### **What is child abuse?**

Child abuse is a term used to describe ways in which children are harmed, usually by adults and often by those they know and trust. It is anything that individuals or organisations do, or fail to do, that directly or indirectly harms children or damages their prospects of a safe and healthy development. It includes:

- physical abuse - which results in non-accidental injuries;
- emotional abuse - which causes psychological or emotional damage;
- neglect - which results in ill health;
- sexual abuse - which includes a range of sexual activity and exploitation of children that can result in physical and/or psychological damage.

In its most serious forms, abuse can lead to death or long-term harm to the physical or emotional wellbeing of a child or young person. It also has long-term consequences for the child's family, friends and sometimes the community – including the sport community.

Research indicates that:

- 1:4 girls and 1:8 boys under the age of 18 will be sexually abused
- child abuse is significantly under reported
- only 10% of abusers appear in court
- every abuser will impact upon the lives of between 70 and 100 children during his/her life time

The reporting of abuse against children has increased significantly over recent years. This is due in part to programs designed to educate young people to come forward and report incidents of suspected abuse; greater community awareness; organisations implementing tighter checking processes and the introduction of new child protection legislation.

### **Is child protection and child abuse an issue for sport?**

- 2002 – swimming coach charged with an alleged offence of indecently dealing with a teenage girl 15 years ago – the Queensland Deputy Director of Public Prosecutions subsequently decided not to present an indictment. The charge was dropped because of insufficient evidence to prove the DPP's case beyond reasonable doubt.
- 2001 - former magistrate found guilty on nine child sex abuse charges – the abuse was of junior lifesavers (nippers) aged 7-13 when the accused was a state and club junior lifesaving coach.
- 2001 - retired professional female jockey alleges she was sexually assaulted for 11 years by males working within the horse racing industry – the abuse began when she was 11 years old.

- 2000 - junior soccer coach jailed for 11 years after pleading guilty to 104 paedophile offences against four of his young players (aged between 10 and 12).
- 2000 - hockey coach pleaded guilty to allegations of indecent assault on a player under his care.
- 1999 - Olympic Assistant Softball coach charged for numerous sexual offences against a 17-year-old under his supervision and care.
- 1999 - triathlon coach pleads guilty to molesting a 13-year-old female swimmer he was training 11 years previously.
- 1999 - rugby league coach (and senior policeman) jailed for sexually assaulting a 14-year-old rugby league player he had been coaching.
- 1999 - athletics coach jailed for sexually assaulting a 14-year old girl he was coaching.
- 1998 – Ruby League international Peter Jackson dies from drug overdose. Family state drug abuse was due to his being sexually abused by his football coach as a schoolboy.
- 1997 - Sydney swimming coach committed to stand trial for sexually assaulting one of his 15-year-old male athletes.
- 1997 - Australian cycling team assistant coach at Paralympic Games pleads guilty to two charges of indecently dealing with a 12 year old.
- 1996 - Former Australian Football Club coach jailed for sexual offences against young boys he coached.

Unfortunately the list goes on with reported incidents of sexual abuse of juniors in swimming, cycling, kayaking, rowing, baseball, gymnastics and other sports.

Child Protection Enforcement Agencies in many states have also indicated a dramatic increase in paedophilia activity in sport, particularly as other areas involving children, such as the Scouts and schools, have tightened up their checking, control and preventive mechanisms.

In addition to these reported incidents of sexual abuse, results from a doctoral study conducted by a Senior Psychologist at the AIS indicate that:

21% of male athletes and 31% of female athletes, in both club and the elite sport, reported experiencing sexual abuse at some point in their lives. These statistics are similar to other community prevalence data, as mentioned earlier, but what is relevant to sport is that of these sexually abused athletes 46% of the elite group and 25% of the club group reported being sexually abused within sport.

The above are all incidences of sexual abuse of children – there are many more, mainly unreported, incidences and behaviours that can amount to child abuse. These can include:

- Inappropriate training techniques that give extra physical loads to children as ‘punishment’. This can be dangerous to the health of children who are already physically tired. Children should be emotionally prepared for any activity in order to perform it confidently, safely and without anxiety.
- Giving children illegal or inappropriate drugs that may affect their physical or psychological development.

- Talking to children in a derogatory way or demeaning their performance in front of others.
- Inappropriate touching when demonstrating techniques.
- Physical aggression when disciplining a child.

*Sport is a particularly vulnerable area for potential child abuse because it:*

- *involves a large number of people under the age of 18;*
- *frequently involves overnight trips (e.g. training camps or competitions); and*
- *usually involves close relationships between adults and children, where the adults are in positions of trust and able to assert authority and power over children.*

The most common characteristics of all forms of abuse against children are an abuse of power or authority, or a breach of trust. Child protection is an issue and a responsibility for the sport industry – and people working in sport need to be clear about their moral and legal obligations to protect children.

### **Child protection and intervention legislation in Australia and what it means for sport**

Child abuse is illegal in all states and territories of Australia with each having their own laws that cover the reporting and investigating of cases of child abuse and the protection of victims.

Recently New South Wales (2000) and Queensland (2001) introduced child protection and intervention legislation that applies to several industries/sectors, including sport and recreation, and affects all people working with children.

Basically, the legislation in both states broadens and strengthens the checking process of those who want to work with children. The principle behind the laws is simple. Children should be safe wherever they are and who ever they are with. They should be safe at home and when they are in places of learning, sport or play.

### **New South Wales Legislation**

Under the NSW legislation employers are required to:

- ask **all** paid and unpaid staff who primarily work with children if they are a ‘prohibited person’ (that is someone convicted of a serious sex offence)
- check the background of preferred applicants for **paid** ‘child-related employment’ (see below for definition).

The background screen involves a national criminal record check of relevant crimes such as child abuse, child pornography, sexual activity, acts of indecency, completed disciplinary proceedings that involve child abuse, and relevant Apprehended Violence Orders. It does **not** reveal crimes that are not relevant such as speeding or drink driving fines.

- provide the NSW Commission for Children & Young People with details of any relevant disciplinary proceedings that have been completed against an employee within the last five years and any that happen in the future .

- not employ a prohibited person in child-related employment.

There is also a requirement for **employees** to declare whether they are a prohibited person or not. If they are a prohibited person they must cease child-related employment within one month.

*'Child-related' employment* is employment that primarily involves **direct, unsupervised contact with children** and includes (only listed categories that maybe relevant to sport):

- paid employment/work under a contract of employment
- work as a subcontractor
- work as a volunteer
- undertaking training as part of an educational or vocational course

*Disciplinary proceedings*

'Disciplinary proceedings' means action against an employee involving child abuse, sexual misconduct or acts of violence where children were present or were directed at children

In NSW, sporting organisations need to request screening checks through an approved screening agency. The relevant agency for sport is the NSW Department of Sport and Recreation. Organisations must register with the Department to obtain an employer ID number for work conducted in NSW in order to be able to request the relevant checks. National and state organisations based outside NSW may also apply for an employer ID number for when they conduct camps, competitions and other junior sporting activities in NSW.

There is no cost to associations for mandatory checks. The time turn around on checks is a minimum of 24 hours to a maximum of 10 working days (if you are requesting a large number of checks).

The issue of **screening volunteers and existing staff** has been a contentious one since the introduction of the child protection legislation in NSW. Originally volunteers were to be screened from January 2001. It will now probably be early 2002. The NSW Commission will advise NSW sporting organisations, and those who are registered with the Department, when it will be mandatory to conduct screens for volunteers and for existing staff.

The NSW Department of Sport and the NSW Commission for Children and Young People can provide relevant forms, advice and more detailed information regarding the NSW legislation and your responsibilities.

### **Queensland legislation**

Under Queensland legislation employers must:

- as of 1 May 2001, undertake a criminal history check for **new/prospective paid employees** prior to appointment in regulated employment

- as of 1 May 2002, undertake a criminal history check for **all volunteers** prior to appointment in regulated employment

*Definition: Regulated employment*

‘Regulated employment’ is any paid or voluntary work that falls under following categories (those relevant to sport):

- school employees other than teachers and volunteers who are parents of children enrolled at the school
- community groups, clubs and associations involving children
- private teaching, coaching or tutoring

In Queensland, if you want to be proactive in this area, you can also request checks on current employees and volunteers.

The cost of a criminal history check in Queensland is \$40.00 for applicants in paid employment. This can be paid by the employer or passed onto the employee. It is anticipated the checks on volunteers will be free.

Once the check is done, the QLD Commission for Children and Young People will assess the person’s suitability for employment and issue a ‘**suitability notice**’ stating whether the person is suitable or not suitable for child related employment. A suitability notice that states a person is suitable is valid for two years. A notice that states a person is not suitable is valid indefinitely.

There are no penalties for not applying for a suitability notice from the Commission for employment that occurs as a “once off” or an otherwise very short-term basis.

### **What if your organisation is not in NSW or QLD?**

The Qld and NSW legislation are also applicable to sports originating outside of these two states. If a sporting organisation sends junior players to NSW or QLD for camps, competition or other activities, the adults travelling with those teams, if they meet the criteria mentioned previously, will also have to undergo the relevant checks.

For example, if the national junior championships is being conducted in NSW or QLD, state associations will have to have the relevant checks done on and forms signed by the coaches, managers and other people over the age of 18 who are travelling with the junior team – prior to the teams arriving in QLD or NSW.

If organisations based outside NSW and QLD want to conduct police checks on applicants for child-related positions, they will need to get advice from the Australian Federal Police or the relevant state police force’s information and records bureau as to whether the organisation can request the checks and if so, the procedure to be followed.

## **Checklist for minimising the risk of child abuse**

Legislation alone isn't enough to protect children – and given it is limited to only a few states and is limited in who you can screen, other measures need to be considered. To provide a safe environment for children in an organisation and to minimise the risk of child abuse occurring, sporting organisations will also need to implement a range of policies, practices and strategies. Such strategies provide additional security for junior members and also protect adult members from false accusations of abuse.

Effective strategies include:

- **Adoption of a child protection policy** - this can be a clear statement that child abuse is not acceptable and is criminal behaviour, and listing the actions your organisation will take in such instances. It can be incorporated into a broader policy, such as a member protection or anti-harassment policy, or as a separate policy. Ensure your organisation's constitution, regulations and by-laws support the policy and allow it to be enforced.
- **Adopting a code of conduct** for all personnel/members and parents. Require everyone to sign it and to renew their pledge on a regular basis (e.g. with annual membership registration, at AGM). Encourage positive behaviours in your sport.
- **Adopting thorough recruitment practices** such as having job descriptions for all delivery roles (paid or voluntary) – this can be a half page of main responsibilities; interviewing applicants and checking references for paid and voluntary positions.
- **Using a screening procedure** whereby *high-risk positions* (paid and volunteer) are identified and appropriate screens on the applicants for these positions are conducted.
- **Appointing a contact officer (member protection officer)** and developing procedures to ensure that allegations of abuse of children are dealt with appropriately and effectively. Ensure that the person selected receives training in child protection issues and **let members know who the person is.**
- **Using accredited coaches and officials** and check that their accreditation is current.
- **Providing information to coaches** and others working with children about how to recognise child abuse and give them directions on what to do if abuse is reported or suspected. Conduct an education and training program to increase awareness of child abuse (various agencies in each state that can assist with this)

*Definition: high-risk positions*

High-risk positions include people who go on tour or on road trips with children, or who are likely to have individual and unsupervised contact with children.

An organisation's ability to use all the processes recommended above will depend on available resources. However the most effective resource is informed people. Increasing adults' awareness of how abuse can happen, what to look for and fostering their sense of responsibility for the welfare of children under their care are the most effective strategies an organisation can implement.

### **For more information**

Australian Sports Commission  
[www.activeaustralia.org/hfs](http://www.activeaustralia.org/hfs)  
Tel: 02 6214 1960

Queensland Commission for Children and Young People  
[www.childcomm.qld.gov.au](http://www.childcomm.qld.gov.au)  
Tel: 1800 113611 (freecall) or 07 3247 5145

NSW Commission for Children and Young People  
[www.kids.nsw.gov.au/check/](http://www.kids.nsw.gov.au/check/)  
Tel: 02 9286 7205

NSW Department of Sport and Recreation  
[www.dsr.nsw.gov.au](http://www.dsr.nsw.gov.au)  
Child Protection Infoline: 1300 366 407  
Employment Screening Coordinator: 02 9006 3773

National Association for Prevention of Child Abuse and Neglect (NAPCAN)  
[www.napcan.org.au](http://www.napcan.org.au) and [www.childsafe.net.au](http://www.childsafe.net.au)

### **Useful resources**

Australian Sports Commission (2000) *Harassment-free Sport: Protecting Children from Abuse in Sport*. Canberra: Australian Sports Commission  
(can be downloaded for free from the above website or hard copy available from the Publications Unit on 02 6214 1915 for \$4.00 plus postage)

ECPAT Australia (2001) *Choose With Care – Building Child Safe Organisations: Information and Training Kit*. Melbourne: ECPAT Australia  
Telephone: (03) 9645 8911