

An updated consideration of consent and positions of trust

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Consent in abuse claims has long been a controversial and difficult subject to broach. Many organisations have been criticised for raising the issue. The CICA for example, has been challenged for its use of this in refusing to make payments to the victims of sexual abuse (see our previous article ['Child sexual abuse and issues of consent in a 21st century world' here](#)).

Helpfully, in most situations, the position is clear. For example in civil claims, the court has made it clear that consent can be vitiated by grooming behaviour prior to a victim turning 16 (JL v Archbishop Michael George Bowen and The Scout Association). Similarly, in criminal cases, the Sexual Offences Act 2003 makes it clear that for certain individuals in a position of trust, such as teachers and carers, the legal age of consent is extended to 18 for those entrusted to them.

It is perhaps then surprising that other individuals in a position of trust, are not similarly regulated by the legislation. [Sports coaches are in the news a lot at the moment](#) as one unregulated profession. They may have much more one-to-one interaction with a child than say, their teachers, who are regulated by the 2003 Act.

Given the approach taken by the Civil Courts in similar cases, it is helpful to see that legislation now looks to be amended soon to follow suit. Proposed amendments to the 2003 Act will clarify the relationships in which consent simply cannot be given.

For those defendant organisations facing civil action, it continues to be just as important as ever to take into account the relationships between a victim and their abuser and the behaviour which may have preceded that abuse.

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