

# Positions of Trust

## Briefing Paper

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### Summary

**Although there is legislation in the UK to attempt to protect children from abuse by adults in positions of trust there is further work that is required to strengthen the provisions to keep children safe from harm and abuse in these settings.**

A position of trust is a legal term that refers to certain roles and settings where an adult has regular and direct contact with children in the United Kingdom (UK).

There are a range of settings which are defined in legislation as settings where adults are in a position of trust over children. The legislation exists to protect young people (in particular 16 and 17-year-olds) from sexual harm and abuse from those who are in a position of trust over them.

## What is currently in place across the UK?

### ► England and Wales

**The Sexual Offences Act (2003) created an offense of an 'abuse of position of trust' if a person over the age of 18 years old engages in sexual activity with or in front of a child, causes or incites a child into sexual activity or forces a child to watch a sexual act.**

A 'position of trust' is defined by this act as applying to those in professional roles such as teaching, social work, hospitals, care homes and children's homes.

The Police, Crime, Sentencing and Courts Act (2022) updated the provision of the positions of trust legislation to include roles such as faith leaders and sports coaches in England and Wales.

### ► Northern Ireland

**The Sexual Offences (Northern Ireland) Order (2008) created an offense for 'abuse of position of trust' if a person over the age of 18 years old**

**engages in sexual activity with or in front of a child, causes or incites a child into sexual activity or forces a child to watch a sexual act.**

A 'position of trust' is defined by this act as applying to those who look after children in hospital, residential care, children's homes, in educational institutions and those who are regularly involved in caring for, training and supervising in such contexts.

The Justice (Sexual Offences and Trafficking Victims) Bill Northern Ireland (2022) extended abuse of position of trust legislation to include faith leaders and sports coaches in Northern Ireland.

### ► Scotland

**The Sexual Offences (Scotland) Act created the offense of 'sexual abuse of trust' which means that it is an offense for an individual over the age of 18 years old to intentionally engage in sexual activity with a person who is under 18 years old when they are in a 'position of trust'.**

A 'position of trust' is defined by the act as when someone looks after a child in an institution, local authority accommodation, educational institution, has parental responsibility for a child and/or teaches, trains, supervises or is solely charge of the child.

## What is required to strengthen the law?

- **Align positions of trust legislation in Scotland** with the amended position in England, Wales, and Northern Ireland, to incorporate sport and faith roles within positions of trust law.
- **Update Abuse of Positions of Trust legislation** to apply to all environments where young people aged 16 and 17 engage with adults in roles that are responsible for caring for, training, supervising or being in sole charge of them.
- **Supplement the current list of potential settings and roles** by making the purpose, nature and context of the relationship between the adult and child the factor which brings a role under the scope of law.
- **Bring greater parity between Positions of Trust and Regulated Activity** through amending the respective definitions and removing the 'frequency', 'intensity' and 'supervision' requirements.

## Conclusion

**Although there are provisions in the legislation across the UK to address abuse of positions of trust, loopholes still exist across legislation across the UK. Further provisions need to be added to positions of trust legislation to keep children and young people safe across a range of settings.**

Position of trust legislation in Scotland needs to be brought in line with the amended position of the legislation in England, Wales and Northern Ireland to incorporate faith leaders and sports coaches. This will allow children in Scotland to be afforded the same safeguards as children in England, Wales and Northern Ireland.

The loopholes in the current legislation across the UK need to be addressed by the positions of trust legislation covering all environments where 16- and 17-year-olds engage with adults who have a position of responsibility and trust over them. The current list of settings and roles should be supplemented by bringing the purpose, nature and the context of the relationship between the adult and child a factor which brings a role under the scope of the law.

There should be greater parity between positions of trust and regulated activity. A review of the definition of regulated activity is required to ensure that all relevant roles in faith communities are covered and the frequency element is removed so the definition is based on the nature of contact rather than supervision.

**Any queries or for further information about this briefing email Katy Jackson on [policy@thirtyoneeight.org](mailto:policy@thirtyoneeight.org) or go to [@Thirtyoneeight](https://thirtyoneeight.org/manifesto)**

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