

WORKSTREAM 2 – System and structure

Action 5: monitor and store securely the information reported/collected

Duty of discretion

What?

When a Safeguarding Officer (SO) is confronted with an incident, it is important that the person in this role maintains a certain degree of discretion.

Why?

A SO must be able to listen to and empathize with the victim. They must also have a trusting relationship with the appropriate authorities within the sport club. Discretion is paramount.

Concretely

Discretion means being careful with the information you have (not leaving information lying around and not sharing confidential or sensitive information with any third party), carefully considering in advance which information is relevant and what you can or should share with other individuals or bodies of the sport club that have authority in this regard. After all, it's important that a SO behaves as any other reasonable and prudent person would in the same circumstances.

When a Safeguarding Officer decides to share certain facts with other people concerning a received report (within or out of the club), they must consider (i) the seriousness of the facts based on the information received, (ii) the club's interest in ensuring the good order and proper functioning of the club, (iii) the victim's interest in receiving the necessary understanding and support, and (iv) the interest of the alleged perpetrator, who also has the right to a defense and a presumption of innocence.

Discretion is, of course, not the same as keeping secrets. Safeguarding Officers are certainly not meant to keep everything to themselves as they are not bound by professional secrecy. However, it is not about spreading or sharing information with people who cannot make decisions or have no authority. Gossiping and spreading rumors are absolutely forbidden!

The precise responsibility for interpersonal violence within a sport club varies from club to club. For example, one or more members of the board, a manager, a coach, can inquire beforehand about who is responsible, and make concrete agreements if these don't already exist, so a Safeguarding Officer knows who to turn to within the club. Additionally, the SO must ensure that the person they share information with also maintains discretion.

If a SO is confronted with serious offenses that seem to be sufficiently proven, they may decide to report immediately to the police. Where possible (and appropriate), the SO must consult with other responsible people within the sport club first. A joint decision to file a complaint is preferred.

- If you witness any incidents of interpersonal violence occurring, provide the victim with all necessary assistance. This may include supporting the victim, providing necessary first aid in the event of an accident, immediately seeking specialized assistance, and/or contacting emergency/safety/criminal services.

Key Rules

- Discretion isn't secrecy. Discretion means being careful with sensitive information and carefully considering who you share it with.
- Only share information with authorized people or bodies within the club.
- Know who you can contact within the club. Make clear agreements about this in advance. These individuals or organisations must also maintain discretion.
- Consider all stakeholders and interests:
 - A victim wants to be recognised and heard, but at the same time wants his or her privacy to be respected.
 - An alleged perpetrator has the right to defense, and their guilt is only established after a confession or a verdict. Therefore, the right to privacy and the right to defense must not be violated.
 - A sport club wants to ensure its internal functioning and good order.
- If you witness a criminal offense, you must offer the victim all the assistance you can at that time.

Safe storage of information

1. Can the Safeguarding Officer take and maintain notes/reports of conversations in the context of reports of interpersonal violence in the sport club?

For a Safeguarding Officer, it is recommended to **create or maintain a report/file on every incident**, but it is advised that these reports do **not contain personal data**.

A Safeguarding Officer can take the following into account:

1. **Create a clear follow up protocol (Workstream 2 – Action 4) for the Safeguarding Officer** - This clearly outlines the tasks of a Safeguarding Officer (including, for example, creating a report for transmission of reports to the board, stating that the role is limited to acting as a relay and listening ear, etc.). This provides a clear framework for the Safeguarding Officer.
2. **Develop an anonymous and concise report** - simply listing the type of interpersonal violence and describing the process of the incident may be in the club's best interest. The goal is not to process any personal data, so it doesn't fall under the GDPR (General Data Protection Regulation). Anonymity is therefore crucial. A report based on checklists can be a good solution here, preventing someone from going into detail. This allows the club to take the necessary action.
3. Only when **transferring to other bodies/services**, for example the police (due to the severity of the problem), is necessary to include personal data, solely for the purpose of information transfer. In this view, it is best to rely on explicit consent from the victim as a legal basis, due to the sensitivity of the situation/data. Regarding reporting, it is

advisable not to include copies of external reports, but only to provide a reference (e.g. only mentioning which doctor prepared a report, without including a copy in the file). Regarding retention periods, we recommend destroying these reports after transferring and retaining only the limited report described in point 2.

2. Can the Safeguarding Officer store images as evidence in the context of an incident of interpersonal violence in the sport club?

If the actual footage is used as evidence, it is strongly discouraged to store it. From a purely GDPR perspective, a Safeguarding Officer cannot rely on a valid legal basis to retain such material (How was the video obtained? Consent from the people in it is certainly not there, etc.). Furthermore, what added value does the SO have for retaining it? If it were truly about a potential criminal offense, it would have to be passed on to the police. Consequently, it would then be up to law enforcement to assess whether the evidence was lawfully obtained.

Sometimes it may be necessary for a Safeguarding Officer to review the evidence to assess the severity of the situation. In these circumstances, the SO always requests permission from the reporter to proceed. Such information cannot be shared via email, WhatsApp, or any other channel. Furthermore, the SO does not retain sensitive information and does not retain it longer than necessary. They can, however, describe in the report which footage it has reviewed. This should be sufficient for an assessment and obtaining advice.

3. In case a Safeguarding Officer decides no longer to perform this role in the club, what happens to the data previously collected? (assuming that data was allowed to be retained)

Please read question 1. A clear description of data processing can be added to the action protocol: what can/must/may (not) be done, and what happens at the end of a position, file transfer, file closure, etc.