
Advice to Motorsport UK



Advice to Motorsport UK following completion of Safeguarding Review by Lime Culture

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1. Introduction

- 1.1 Following the conviction of Michael Kellard in November 2023 for 15 child sex offences against teenage boys aspiring to be racing drivers, Motorsport UK commissioned the widely respected safeguarding experts, LimeCulture, to conduct a review to “focus upon the Kellard case to enable it to understand whether its current response to safeguarding would help ensure that a similar situation could not happen again”. Such an approach involved identifying key themes and lessons from the Kellard case, a stress testing of Motorsport UK’s current safeguarding regime against those themes/lessons and recommending steps for further improvement to help ensure the safety and welfare of all children and young people participating in karting.
- 1.2 Farrer & Co are the leading law firm in the UK advising organisations on safeguarding and routinely works with clients carrying out safeguarding reviews. Our advice has been sought by Motorsport UK on the implementation of the LimeCulture recommendations.
- 1.3 The purpose of this advice is to supplement the work undertaken by LimeCulture, so that Motorsport UK can fully understand its legal powers and jurisdiction to carry out the various recommendations made by LimeCulture.

2. Key Themes

- 2.1 It is important to recognise that the offending for which Kellard was convicted in 2023 took place between 2000 and 2005 when safeguarding legislation, guidance and best practice across the sporting sector was very much in its infancy. In common with most sports Motorsport UK at that time would have had no safeguarding policy and no-one employed in the organisation with responsibility for safeguarding. That position is very different today – Motorsport UK has an extensive and well publicised Safeguarding Policy, a Safeguarding Strategic Delivery Plan, and four full time roles within its Safeguarding Team headed by an experienced and committed Head of Safeguarding.

- 2.2 Observed with the benefit of hindsight LimeCulture identify some important key themes from the Kellard case, including:-
- 2.2.1 the manner in which Kellard was able to embed himself within, and groom multiple members of, the karting community – so as to facilitate his abuse of children;
 - 2.2.2 the opportunities available to someone in Kellard's position (i.e. as lessee of a kart shop located on the site of a racetrack, and as a mechanic and/or team manager of a local karting team) to be alone (including overnight before competitions) and unsupervised with children. Indeed he was able to travel around the country training and driving with young people, to be involved in supporting the karting careers of those young people (including his victims) with offers of advice and financial support to them and their families;
 - 2.2.3 the severe limitations on Motorsport UK's ability (both then and now) to regulate the sport outside its areas of jurisdiction (i.e. recognised clubs, licensed venues, permitted events). As such it was possible for Kellard to identify, groom and abuse his victims largely, if not entirely, outside of Motorsport UK's regulated remit;
 - 2.2.4 this lack of jurisdiction may have contributed to the failure of information about Kellard, known within the local karting community, to be shared with Motorsport UK. Although LimeCulture were satisfied that Motorsport UK was unaware until October 2021 of Kellard's previous 1988 conviction (for indecency against a 16-year-old) and of separate police investigations into allegations of child abuse in 1995 and 2004, they found that some information about Kellard's history was known or in circulation within the local karting community, but was never shared with Motorsport UK. Indeed it was not until after the Police had first notified Motorsport UK of their investigation into Kellard in October 2021 that Motorsport UK learnt of any historic offending behaviour (or allegations of the same) on the part of Kellard, including his previous criminal record;
 - 2.2.5 it was not just a failure to share information known within the local karting community with Motorsport UK which LimeCulture identified. There was also a failure to share information which was known to statutory agencies with Motorsport UK. Most recently this resulted in Motorsport UK not being informed until October 2021 of the police investigation which commenced into the 2000-2003 allegations against Kellard in July 2021. This was seemingly because Kellard's role as Mechanic was not regarded by statutory agencies as "regulated activity" within the definition given to that within the Disclosure and Barring regulations. Had it been so categorised Motorsport UK would

have been notified at the time of the initial police report being made;

2.2.6 LimeCulture found that from the point it was informed in October 2021 Motorsport UK acted swiftly and robustly to take steps to safeguard children from Kellard (e.g. the prompt notification to the Venue operators of his arrest and Kellard's suspension from involvement or participation at any permitted event – meaning he was prohibited from working, volunteering or attending any Motorsport UK event). However, in practice Kellard by that time held no licences with Motorsport UK. This meant that even whilst Kellard was under police investigation for child sex offences, he continued to be able to operate from his kart shop (which was not in itself subject to Motorsport UK's jurisdiction or regulation) and to involve himself in other aspects of karting, provided these did not stray into Motorsport UK permitted events being hosted by Motorsport UK recognised clubs at licenced venues.

2.3 It is apparent to us from the facts of the Kellard case and LimeCulture's review that Motorsport UK are currently powerless to regulate or indeed safeguard children outside of their own jurisdiction and licensing regime. Unless this significant issue of lack of coverage is addressed there is a very real risk of children (or others) coming to harm in the course of unlicensed activities which fall outside of Motorsport UK's remit. Indeed, arguably the tighter the safeguarding regime imposed by Motorsport UK on its own licensed clubs, venues and events, the more likely that offenders like Kellard will simply look to operate in the shadows outside of Motorsport UK's reach and vigilance.

3. Lessons and Recommendations

3.1 LimeCulture has made a number of recommendations to Motorsport UK as to steps which it could/should take and improvements it could/should make to its safeguarding regime and arrangements. It is not in the interests of children that the details of these recommendations are published, but suffice it to say that there are many sensible and worthwhile proposals to look at and Motorsport UK will wish to consider implementation of the various recommendations in one form or another. The Head of Safeguarding should draw up an action plan containing a detailed list of actions which will happen; when and in what order of priority. We are happy to assist with implementation.

3.2 However, there is a fundamental point which needs to be recognised and grasped. That is that for so long as Motorsport UK's jurisdiction and coverage is limited to clubs, venues and events which it licenses, there will remain potentially significant risks of harm to children and young people involved in unlicensed (by Motorsport UK) activities. Hence why the number one recommendation emanating from LimeCulture is that Motorsport UK carry out a mapping exercise across the whole of karting (and the other motorsport disciplines) to identify those activities which are not currently included within its safeguarding remit or jurisdiction, and to

consider how safeguarding provision might be extended or influence exerted in order to mitigate the risk to individuals, and particularly children, participating in the unregulated sport.

- 3.3 We consider that such a mapping exercise is worthwhile and should serve to identify unregulated areas of the sport where parents are permitting their children to become involved in spite of the lack of any safeguarding governance or provision applying to them. We would be concerned about the possibility of families unwittingly taking false comfort from an assumption of Motorsport UK oversight when the reality is that Motorsport UK is powerless to exercise oversight over unregulated activities. At the very least, it seems to us to be essential that families understand very clearly to which motorsport activities the safeguarding kitemark of Motorsport UK jurisdiction and regulation applies – and to which it does not. At least in that way families can take educated decisions about which activities their children become involved in.
- 3.4 Extending Motorsport UK's jurisdiction and regulation beyond its licensed activities will in practical terms be extremely difficult to achieve. Just as the FA cannot control every casual game of football played in the country, nor can Motorsport UK control those who choose to participate in the sport privately outside of its jurisdiction. However, one thing which is probably different between football and motorsport is that football only requires a ball, some grass or concrete and some people. Motorsport, even where it is performed away from the reach of Motorsport UK, still requires tracks, mechanics, technical equipment etc and there is a greater likelihood of overlap between those involved in Motorsport UK regulated activities and those involved in unregulated activities. Hence, we believe that education of all those involved in licenced Motorsport UK activities to maintain vigilance on matters of safeguarding and to report concerns which they observe or hear about anyone involved in the sport (whether regulated or unregulated) could be a means of mitigating the risk of another Kellard, even where they are choosing to operate outside Motorsport UK's remit. Motorsport is a smaller community than many other sports like football and the closeness of that community could be a significant strength. For example, if a Kellard were operating in unlicensed karting or motorsport activities today, the two questions to ask are whether (a) they would be identified by those who fall within Motorsport UK's regulated regime and (b) whether an obligation would be felt to report safeguarding concerns to Motorsport UK, even where the individual was not operating in a licensed context. Whilst an answer cannot be given to (a), the answer to (b) is hopefully yes, but there perhaps needs to be work done to reinforce the role that Motorsport UK licence holders have to be the regulator's eyes and ears, not only within but outwith the regulated areas of Motorsport.
- 3.5 Acknowledging that the reason why Motorsport UK was not informed by the Police or local children's services department about allegations against Kellard was because the role of mechanic was not understood to be a "coaching" role and hence falling within the technical definition of regulated activity, LimeCulture recommends that work is undertaken to ensure that the mechanic role is properly categorised by licence holders

within the sport. We would make two points in this respect. The first is that we do not think this exercise should be limited to the mechanic role. Indeed we believe it would be sensible to map the range of roles in motorsport so as to enable Motorsport UK to issue guidance to the sector as to which are likely or not likely to fall within the definition of regulated activity. Ultimately it is for employers, contractors or those using volunteers to reach their own determinations in individual cases whether the definition of regulated activity is met. If it is then clearly enhanced DBS certificates will need to be obtained before they carry out work with children, statutory authorities will recognise the need to share information as appropriate with organisations, and referrals will need to be made to DBS in the event of the removal of an individual from regulated activity on safeguarding grounds.

- 3.6 LimeCulture recommends a consideration by Motorsport UK of the responsibilities of recognised clubs, venues and Team Managers in respect of management of those who are suspended or banned from Motorsport UK licensed activity. The rationale behind this recommendation was the fact that Kellard held a commercial lease from a licensed venue of the premises from which he ran his kart shop/garage. Even after Kellard's suspension by Motorsport UK from all regulated events, the licenced venue was concerned about its legal ability to prevent him attending the premises which were the subject of a binding commercial lease. It seems to us that the granting and maintenance of licences to venues by Motorsport UK can legitimately be made conditional on the venue owner providing assurances not just as to its own staff and volunteers, but also as to any contractors, business partners and commercial lessees who will thereby have access to licenced venues and events.
- 3.7 This leads to the question of sanctions by Motorsport UK of license holders where they fail to meet the necessary safeguarding standards. The UK sport regulatory regime depends on a system whereby governing bodies issue licences which are themselves subject to clubs, coaches etc meeting the necessary standards in order to retain them. When a coach is found guilty of safeguarding concerns his coaching licence can be removed, thereby severely restricting his ability to work in the sport (at least in this country). Similarly, if a venue or a club fails to meet the necessary governing body standards, their ability to host or participate in that governing body's events or leagues can be suspended or removed, with the significant commercial and reputational impact which that may have. Motorsport UK is no different in this respect to other sports governing bodies and we agree with LimeCulture that a general review of licence conditions and sanctions for breach would be sensible, and is no different to the approach taken by other sports governing bodies.

4. Conclusion

- 4.1 Adults like Kellard who abuse children thrive in unregulated environments – which is why UK teachers barred from teaching will often move and work overseas or move into private tutoring. Motorsport UK can make its regulated clubs, venues and events as safe as it can – but for so long as

it is possible for offenders to work or volunteer in unregulated activities linked to the sport, safeguarding risk will be present. That is why it is imperative for the motorsport community to understand the safeguarding standards applied to regulated activities and the safeguarding risks associated with unregulated ones.

- 4.2 Lack of clarity in terms of accountability and responsibility breeds safeguarding risk. A sport in which, for example, a licensed venue can host unlicensed events is bound to create confusion as to which rules apply in any given case. The clarification of accountability and responsibility of licensed venues, teams and events as part of Motorsport UK's licensing regime will play an important role in keeping children safe in motorsport.
- 4.3 Motorsport UK cannot simply impose itself as self-appointed sheriff on the wild west of unregulated motorsport. But it can encourage activities to within its umbrella by offering a kitemark in safeguarding which children and their families find reassuring. And it can encourage its license holders to act as its eyes and ears, so as to facilitate the reporting of future Kellard type concerns within unregulated areas of the sport.
- 4.4 We are very happy to work with Motorsport UK on any of the actions covered in this advice.

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