

## Appendix 6 – New Policies

### Contents

Highway Claims .....	<b>Error! Bookmark not defined.</b>
Safety Certification Policies.....	5

**EAST SUSSEX COUNTY COUNCIL  
LEAD MEMBER - TRANSPORT AND ENVIRONMENT  
POLICY SUMMARY**

## **Highway Claims**

### **Purpose of Policy**

East Sussex County Council (ESCC) recognises the vital role played by the local highway network.

The purpose of this policy is to set out the principles of how the County Council will manage, handle and validate claims arising from an event on the highway network.

East Sussex County Council has a duty of care to ensure that the highway maintainable at public expense is maintained to a standard which is safe for its ordinary users. This does not prevent the County Council from seeking indemnity from another party such as a Contractor or statutory undertaker.

### **Policy Statement**

This policy applies to third party claims by highway users.

1. East Sussex County Council will not settle claims for compensation automatically, but will investigate and assess each claim individually on the basis of its own facts and merits.
2. Where East Sussex County Council considers that there has not been a breach of its statutory duties under s41 Highways Act 1980; or that it is considered that the Section 58 statutory Defence can be relied upon (i.e. if the County Council has not been negligent in the inspection and maintenance of the highway) then claims shall be robustly defended.
3. Reasonable measures will be taken to ensure the safety of highway users and appropriate procedures for ensuring suitable design standards, inspections, defect categories and timescales for repair will be drawn up where appropriate.
4. Records will be kept of all activities on the highway, including safety and other inspections, including the time and nature of any responses to defects raised and customer notifications received.
5. Claims will be investigated and all relevant information will be provided to the claimant in a timely manner according to the current County Council Customer Care Charter and the Civil Procedure Rules relating to disclosure.
6. The details of all claims will be properly recorded and kept in accordance with appropriate archiving policy.
7. Damage as a direct result of third party operations, such as utility companies, is the responsibility of that organisation and claims must be taken up directly with them by the claimant.
8. The principles of this policy may be adopted for claims made by highways users for

incidents which do not arise from s41 of the Highways Act.

### **Supporting Information**

Section 58 of the Highways Act, 1980 provides a defence against action relating to alleged failure to maintain on grounds that the authority has taken such care as in all the circumstances was reasonably required to secure that the part of the highway in question was not dangerous for traffic.

Civil Procedure Rules 1998 for England and Wales 1998 (88<sup>th</sup> Edition)

Well-managed Highway Infrastructure – A code of practice – UK Roads Liaison Group, October 2016

Highway Risk and Liability Claims - A practical guide to Appendix C of The UK Roads Board Report 'Well Maintained Highways: Code of Practice for Highway Maintenance Management', July 2009

**Highway Risk and Liability Guide 2nd edition - Code of Practice, July 2009**

Highway Asset and Inspection Guidance Document

### **Version control**

Approved by Lead Member for Transport & Environment

### **Date of last review:**

## **Safety Certification Policies**

### **Purpose of Policy**

The purpose of the policy is to set out East Sussex County Council's approach to discharging its powers and responsibilities in respect of the issue and review of safety certificates for sports grounds, to ensure the reasonable safety of spectators.

**Version control**

**Date of last review:**

**EAST SUSSEX COUNTY COUNCIL**

**SAFETY OF SPORTS GROUNDS**

**ACT 1975 (as amended)**

**FIRE SAFETY AND SAFETY OF**

**PLACES OF SPORT ACT 1987**

**Safety Certification Policies**

## **Content**

**1 Policy for Issue and Review of General Safety Certificates**

**2 Monitoring and Inspection Policy**

**3 Enforcement Policy**

# **Policy for the Issue and Review of General Safety Certificates**

## **1. Introduction**

East Sussex County Council recognises its statutory duty for the safety certification of sports grounds under Safety of Sports Grounds Act 1975 (as amended) (1975 Act) and the Fire Safety and Safety of Places of Sport Act 1987(1987 Act), and also recognises its responsibilities for spectator's safety at all sports grounds within its boundary. In undertaking this role, the Council will:

- delegate its power to take and implement decisions on safety certification to a designated council officer;
- provide for adequate resources and appoint appropriate council officers and/or engage competent specialist agencies/external consultants as necessary, to assist the Council in carrying out its statutory duties relating to the safety of spectators at sports grounds under the 1975 and 1987 Acts;
- convene as necessary, Safety Advisory Group (SAG) meetings to assist in its statutory duty to sports grounds, whose membership will include representatives of the police, fire service, ambulance service, building control, the relevant certificate holder and appoint a designated council officer to chair the SAG for each sports ground subject to a safety certificate;
- determine if any sports grounds contain regulated stands and will expediently process and issue safety certificates in respect of those stands and/or any sports ground designated by the Secretary of state under the provisions of the 1975 and 1987 Acts;
- put in place policies and procedures for monitoring by inspection/audit compliance with the terms and conditions of any safety certificate issued and taking appropriate and proportional action in response to any identified defect or incident compromising spectator safety;
- provide prompt advice on spectator safety on request from sports ground venue operators, and
- keep under review its procedures and arrangements in pursuit of ensuring the reasonable safety of spectators at sports grounds within its responsibility.

## **2. Definitions**

The 1975 Act defines a sports ground as a place where sports or other competitive activities take place in the open air, where accommodation has been provided for spectators, consisting of artificial structures or natural structures artificially modified for the purpose.

Under the provisions of section 1 of the 1975 Act the Secretary of State for Culture, Media and Sport may designate as requiring a safety certificate any sports ground

that has accommodation for more than 10,000 spectators, or 5,000 in the case of Premier League and Football League grounds in England and Wales. These sports grounds are referred to as designated grounds.

A Regulated Stand is defined in the 1987 Act as any covered stand at a sports ground with accommodation for 500 or more spectators, whether seating or standing.

The SAG is a multi-agency advisory group consisting of the appropriate members of local authority staff, representatives of the Sussex Police, East Sussex Fire & Rescue Services, South East Coast Ambulance Services NHS Trust and the local Building Control Authority. In addition, representatives of the sports grounds operator will be invited to attend.

### **3. Legislation and Guidance**

This policy and procedures should be read in conjunction with the following legislation that applies to the safety of spectators at sports grounds:

Safety of Sports Grounds Act 1975

Fire Safety and Safety of Places of Sport Act 1987

Safety of Sports Grounds Regulations 1987

Safety of Places of Sport Regulations 1988

Guidance on the application of the legislation referenced above can be found in the following Home Office Circulars-

**Home Office Circular No 7/1986** – Annex C of which provides guidance on the procedure regarding applications for general safety certificates under the provisions of the Safety at Sports Grounds Act 1975.

**Home Office Circular No 96/1988** – Which includes advice on the issue of safety certificates for regulated stands.

**Home Office Circular No 97/1988** – Which includes statutory guidance to local authorities under section 26 (8) of the 1987 Act on the methodology that must be applied in determining whether a stand at a sports ground is a "regulated" stand.

Further advice is contained in "Guide to safety certification of sports grounds" published by the Sports Grounds Safety Authority.

### **4. Purpose**

This document sets out East Sussex County Council's approach to discharging its powers and responsibilities in respect of the issue and review of safety certificates for sports grounds.

## **5. Scope**

The sports grounds covered by these arrangements are:

Arlington Raceway, Arlington

Devonshire Park, Eastbourne

Langney Sports Club, Priory Lane, Eastbourne

Pilot Field, Hastings

Plumpton Racecourse, Plumpton

The Dripping Pan, Lewes

The above sports grounds have Safety Certificates to regulated stands at the grounds issued under the Fire Safety and Safety of Places of Sport Act 1987. The powers of issue and review of the safety certificates are vested solely in East Sussex County Council officers with delegated authority for this activity.

## **6. Delegated Powers**

The Council has delegated its powers for the safety certification of sports grounds under the 1975 Act and the 1987 Act to:

Assistant Director, Operations and Contract Management, Communities, Economy and Transport Department

The delegated powers allow for the designated council officer to issue and amend safety certificates.

## **7. Qualified person**

Upon receipt of an application for a safety certificate the Council must determine if the applicant is a “qualified person” This is defined in the 1975 Act as a person who is likely to be in a position to prevent any contravention of the terms and conditions of the safety certificate. The certificate holder should be in a position of authority within the management of the sports ground and could include the chairman, chief executive, club secretary, ground manager, safety officer or a director, depending on the sports ground/club.

Under the 1987 Act, the definition of a person qualified to hold the safety certificate for a regulated stand is more tightly drawn. In the case of a general safety certificate, it is the person responsible for the management of the sports ground; for a special safety certificate, it is the person responsible for organising the activity being watched by the spectators. This apart, the procedure mirrors that for the issue of the safety certificate for a designated sports ground.

If the Council determines the applicant is not a qualified person, it must notify him/her in writing. The applicant may then appeal against this determination to a magistrate's court within 28 days or 7 days in the case of a special safety certificate.

## **8. Safety certificate applications and information required**

The format of an application for a safety certificate for a designated ground and for a regulated stand is set out in the Safety of Sports Grounds Regulations 1987 and Safety of Places of Sport Regulations 1988 respectively. In accordance with the European Services Directive of December 2006 the Council is required to make provision for online safety certificate applications. Application forms for a safety certificate under either the 1975 Act or 1987 Act are accessible on the Council's web site.

Applications are processed through the Council's, Communities, Economy and Transport Department. The Council must supply the chief officer of police and, where it is not itself that authority, the fire authority or the building authority, with a copy of any application received. It will also formally consult them and South East Coast Ambulance Services NHS Trust about the terms and conditions of the certificate.

The application should be accompanied by detailed information as to structure, capacity and safety management systems. The Council may, by writing, require the applicant to submit within a reasonable period such additional information and plans it considers necessary to enable it to determine what terms and conditions to include.

## **9. Timetable**

The Council will aim to issue a safety certificate within three months of receipt of an application.

## **10. Contents of a safety certificate**

In accordance with section 2 of the 1975 Act and section 27 of the 1987 Act the Council is required to include in the safety certificate such terms and conditions it considers necessary or expedient to secure the reasonable safety of spectators. Safety certificates issued by the Council will include the capacity of the designated ground, or regulated stand, as well as capacities for each part thereof. The certificate will also include the terms and conditions with which the holder must comply to maintain that capacity. In determining the contents of a safety certificate, the Council will take account of the advice of the emergency services and local Building Control Authority and the guidance contained in the Guide to Safety at Sports Grounds and that published by the Sports Grounds Safety Authority in its "Guide to the safety certification of sports grounds".

## **11. Ratification of the certificate**

In accordance with its standing orders, the Council has delegated its power to issue and amend a safety certificate to the Assistant Director, Operations and Contract Management, Communities, Economy and Transport Department.

## **12. Rights of Appeal**

The 1975 and 1987 Acts both provide right of appeal to the magistrate's court to:

- any person against a determination by the local authority that he/she is not qualified to hold a safety certificate;
- any interested party against the inclusion of anything in or omission of anything from a safety certificate or the refusal of the local authority to amend or replace it; or
- any person, upon whom the local authority has served a notice that it, has determined that a particular stand is a designated stand, against that determination.

Appeals must be lodged within 28 days if they relate to a general safety certificate.

## **13. Review of safety certificate**

The Council will undertake a review of issued safety certificates on an annual basis or at a lesser time in response to physical changes at sports grounds, incidents or 'near misses' brought to their notice, changes in safety management performance or in response to changes to legislation or spectator safety guidance.

The review will consider the terms and conditions of safety certificates to validate they remain relevant for providing for the reasonable safety of spectators at the designated sports ground or regulated stand. The review will be undertaken by S & P Stadia Consultants Ltd. The outcome of the review shall be recorded and reported to the Commercial Manager, Contracts Management Group, Communities, Economy and Transport Department.

## **14. Public access**

The safety certificate is a public document, to which any person who is either responsible for applying it or likely to be affected by it should have access. The Safety at Sports Grounds Regulations 1987 and 1988 require the Council to notify every interested party, as defined by the Regulations as

the holder of a safety certificate;

any other person who is or may be concerned in ensuring compliance with the terms and conditions of a safety certificate;

the chief officer of police;

the fire authority, and

the building authority.

This notice must specify that a copy of the safety certificate and any application is available for inspection at a specified time and place. The Council must also publish a similar notice in a local newspaper.

### **15. Suitably trained and competent staff**

Individual officers who are responsible for the issue and review of safety certificates under the 1975 and 1987 Acts will be suitably trained and qualified to ensure their competency.

The Council will ensure that:

- duties are specified in job descriptions and experience is built-up over time with provision made in individual appraisal for monitoring progress;
- all advisers have professional qualifications, experience in other sectors and are on continuous professional development cycles as well a regular participation in sports grounds work and including SAGs; and
- appropriate succession planning is in place to ensure that staff have the necessary training and experience to undertake the roles they may be expected to undertake.

### **16. Revisions to this Document and Review**

This policy and procedures will be reviewed at intervals not exceeding 12 months and amended at any stage to reflect any changes that may occur in operation procedure or to current legislation.

Following any amendment a complete replacement will be distributed.

Prepared by: B Simpson, S & P Stadia Consultants Ltd

Approved by:

Date of Issue:

Date of last review:

Reviewed by:

# Monitoring and Inspection Policy

## 1. Introduction

East Sussex County Council recognises its statutory duty for the safety certification of sports grounds under Safety of Sports Grounds Act 1975 (as amended) (1975 Act) and the Fire Safety and Safety of Places of Sport Act 1987 (1987 Act), and also recognises its responsibilities for spectators safety at all sports grounds within its boundary, and in furtherance of meeting its role will implement the following procedures and arrangements in respect of monitoring and inspection of sports ground.

This document should be read in conjunction with the following policy:

### Enforcement

So as to provide a full understanding of the Safety at Sports Ground role carried out by East Sussex County Council.

In discharging its monitoring and inspection responsibilities the Council will:

- delegate its power to take and implement decisions on safety certification to a designated council officer;
- provide for adequate resources and appoint appropriate council officers and/or engage competent specialist agencies/external consultants as necessary, to assist the Council in carrying out its statutory duties relating to the monitoring and inspection sports grounds under the provisions of the 1975 and 1987 Acts;
- convene as necessary, Safety Advisory Group (SAG) meetings to assist in its statutory duty to sports grounds, whose membership will include representatives of the police, fire service, ambulance service, building control, the relevant certificate holder and appoint a designated council officer to chair the SAG for each sports ground subject to a safety certificate;
- regularly monitor by inspection/audit compliance with the terms and conditions of any safety certificate issued; and
- keep under review its procedures and arrangements in pursuit of ensuring the reasonable safety of spectators at sports grounds within its responsibility.

## 2. Purpose of monitoring and inspection

The monitoring and inspection regime is intended to provide reassurance to the Council that the terms and conditions of safety certificates issued under the provisions of the 1975 and 1987 Acts are being complied with and that ground management are maintaining the sports ground and its safety management regime at a level which provides for the reasonable safety of spectators.

The regime will include:

- annual inspections; and
- during performance inspections.

### **3. Scope**

The monitoring and inspection procedures set out in this document will apply to the following sports grounds:

Arlington Raceway, Arlington

Devonshire Park, Eastbourne

Langney Sports Club, Priory Lane, Eastbourne

Pilot Field, Hastings

Plumpton Racecourse, Plumpton

The Dripping Pan, Lewes

The above sports grounds have Safety Certificates to regulated stands at the grounds issued under the Fire Safety and Safety of Places of Sport Act 1987.

### **4. Monitoring and Inspection of Sports Grounds**

The Council has engaged S & P Stadia Consultants to undertake the role of monitoring and inspecting sports grounds under the 1975 Act and the 1987 Act.

### **5. Annual Inspection**

The inspection schedule of grounds with regulated stands will depend on the size of the largest regulated stand.

Where a ground contains a regulated stand that has accommodation for more than 2000 spectators an inspection of that stand, plus any other regulated stands and such un-certificated parts of the ground as the Council considers necessary, will be undertaken at least once every calendar year following the date of the last inspection.

At all other grounds with regulated stands an inspection of the regulated stands and such un-certificated parts of the ground as the Council considers necessary will be carried out at least once every alternate calendar year following the date of the last inspection.

The inspection of regulated stands will cover the items in the statutory guidance set out in Home Office Circular 97/1988. The inspections will encompass:

- the certificates covering structural, dynamic performance and electrical tests;
- the records maintained by the management of the sports ground, in particular of attendances, accidents, maintenance, equipment tests, steward training and contingency plans;
- the condition of the sports ground and its fixtures and fittings; and the lighting, public address, fire warning and entry control equipment.

## **6. During Performance Inspection**

During Performance Inspections will be made from time to time, on event days, to ensure that the terms and conditions in the safety certificate are suitable and appropriate for the use taking place and to monitor the ground management's compliance with the terms and conditions of the safety certificate.

When undertaking during performance inspections the council's representative will:

- make their presence known to the duty safety officer and others in the control room;
- tour all accessible parts of the sports ground and 'walk the ground', that is to say, not stay in one particular area of the sports ground for any length of time;
- observe the safety management arrangements and crowd, recording any problems and noting the time of the incident etc;
- record items examined on an inspection check sheet a copy of which will be annexed to the officer's report of the inspection; and
- after the event produce detailed reports of the management of the activity which shall be copied to the Commercial Manager, Contracts Management Group, Communities, Economy and Transport Department and sent to the club requesting action and/or explanations, to enable consideration to be given to further control and/or enforcement action.

Where breaches in the terms and conditions of safety certificates are noted, these will be brought to the attention to the holder and duty safety officer immediately. A standard notification of non-compliance form will be used to notify the holder at the venue of any non-compliance. These will be followed up by formal letters of confirmation.

The responsibility for the safety of spectators lies at all times with the holder of the general safety certificate. Therefore, when the inspecting person is at the ground, he should not try to enforce the terms and conditions of the safety certificate on the spectators, but should refer breaches and concerns immediately to the club's duty safety officer.

The frequency of during performance inspections will be determined by risk assessment which will take account of the safety management culture at the ground and ground management's compliance with the safety certificate.

## **7. Competency**

The Council will ensure those who undertake inspection duties on their behalf under the 1975 and 1987 Acts are suitably trained and qualified to ensure their competency, with all advisers having relevant professional qualifications, experience in other sectors and are on continuous professional development cycles as well a regular participation in sports grounds work.

## **10. Review and revisions to this document**

This policy and procedures will be reviewed at intervals not exceeding 12 months and amended at any stage to reflect any changes that may occur in operation procedure or to current legislation.

Following any amendment, a complete replacement will be distributed.

Prepared by: B Simpson, S & P Stadia Consultants

Approved by:

Date of Issue:

Date of last review:

Reviewed by:

# **Enforcement Policy**

## **1. Introduction**

This enforcement policy sets out the arrangements that East Sussex County Council has put in place for ensuring compliance with the relevant safety at sports grounds legislation. It explains the Council's powers and approach to enforcement activity, how the Council deals with businesses and the approach to be taken when infringements of the law are established. In applying this policy, the Council's aim is to ensure that any enforcement action taken is proportionate, open, consistent and clear.

This document should be read in conjunction with the following policy:

Monitoring and Inspection

So as to provide a full understanding of the Safety at Sports Ground role carried out by East Sussex County Council.

## **2. Legislation and guidance**

The relevant legislation that applies to sports grounds safety enforcement and which should be read in conjunction with this policy are as follows –

Safety of Sports Grounds Act 1975 - 10B Enforcement - The duty of every local authority to enforce within their area the Act and regulations made under it and to arrange periodical inspection of designated sports grounds.

Fire Safety and Safety of Places of Sport Act 1997 - 25 Enforcement - It shall be the duty of every local authority to enforce within their area the provisions of this Act and of regulations made under it for designated grounds.

Detailed guidance on prohibition notices is contained in the DCMS Circular of 16 November 1995.

It is an offence for any responsible person, not merely the certificate holder, to contravene the terms and conditions of a safety certificate or a prohibition notice. The penalties for contraventions of the safety certificate are listed in section 12 of the 1975 Act and section 36 of the 1987 Act.

Further advice is contained in "Guide to Safety Certification of Sports Grounds" published by the Sports Grounds Safety Authority.

## **3. Purpose**

The Council seeks to ensure that in enforcement and regulation, the interests of the public are protected.

The purpose of this policy is to ensure that the law is applied in a fair, equitable and consistent manner and to guide officers into taking the appropriate action.

In general and where appropriate, consideration will be given to alternatives to prosecution, for example giving advice and assistance, or obtaining assurances about future conduct.

Before formal action is taken, officers will normally provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of spectator safety, health and safety or to prevent evidence being destroyed.)

All decisions will be impartial and will not be influenced by race, politics, gender, sexual orientation, religious beliefs or any other belief or status of the alleged offender.

Officers will have due regard to the principles contained within the Enforcement Concordat and any other published and relevant guidance.

The Council will take into account the comments of any victim, injured party or other relevant person to establish:

- his or her views about the circumstances in which enforcement action is deemed appropriate; and
- the nature and extent of any harm or loss, and its significance relative to the individual circumstances.

East Sussex County Council is a public authority for the purposes of the Human Rights Act 1998. Officers will therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

#### **4. Scope**

The sports grounds primarily covered by these arrangements are:

Arlington Raceway, Arlington

Devonshire Park, Eastbourne

Langney Sports Club, Priory Lane, Eastbourne

Pilot Field, Hastings

Plumpton Racecourse, Plumpton

The Dripping Pan, Lewes

The above sports grounds have Safety Certificates to regulated stands at the grounds issued under the Fire Safety and Safety of Places of Sport Act 1987.

Under the provisions of section 10B of the Safety of Sports Grounds Act 1975 the Council has the power to issue a prohibition notice to limit the capacity, or totally prohibit the admittance of spectators to any sports ground within East Sussex.

## 5. Delegated powers

The Council has delegated its powers for the enforcement of the Safety of Sports Grounds Act 1975 (as amended) and the Fire Safety and Safety of Places of Sport Act 1987 to:

The Assistant Director, Operations and Contract Management, Communities, Economy and Transport, Department.

## 6. Consistency

The Council will seek to ensure that enforcement is fairly applied by committing to the following principles of fairness:

**Proportionate** - Any action taken by the Council, to achieve compliance or to bring regulated entities to account for non-compliance, will be proportionate to the risk to public safety, or to the severity of non-compliance, which includes any actual or potential harm arising from the failure under the law. We will seek to minimise the costs of compliance by ensuring that any action we require is in proportion to the risk.

**Consistency** – There will be a consistent approach from the Council in relation to any advice given, enforcement action, prosecutions and in response to incidents and complaints. The Council will discuss and compare enforcement decisions and policies amongst our own officers and, where appropriate, with other authorities and enforcement bodies.

**Targeted** – By adopting a risk based system for prioritising regulatory action the Council aims to make sure, through targeting, that the direction of regulatory effort takes into account the level of risk and ensure action will be targeted at those situations that give rise to the more serious risks or the least well controlled risks.

**Transparent**– The Council will be open about how we set about our work and will provide information and advice in plain language. We will ensure we help those we regulate to understand the standards expected from them and the standards that they should expect from the local authority.

**Accountable** - The Council will be able to justify all enforcement decisions and be accountable for the efficiency, effectiveness and cost. Consultation and feedback opportunities are given to stakeholders.

## 7. Enforcement considerations

The Council's enforcement officers will consider a number of factors and questions before deciding when to act, these questions will include:

The seriousness of compliance failure i.e. could the offence lead to a serious risk of injury or has serious injury or death already occurred, if the problem is not rectified will it lead to a significant risk?

The degree of willfulness involved i.e. does the individual or organisation concerned appear to be willing to carry out the necessary action immediately or in a specified time frame or has the problem resulted from a deliberately ignoring conditions or the law?

The ground managements past performance and its current practice i.e. has the recommendations, is this a recurring problem, has the business had a previous high standard of practice?

The risks being controlled and there consequence – what type of risks are involved and will they have serious consequences that could affect the public?

Legal, official or professional guidance – Has all legislation and guidance been taken into consideration when taking a decision? Has the issue been referred to the local authority legal department for their consideration and interpretation?

## **8. Choices of enforcement action**

There are several courses of action open to the council's enforcement officers depending on the different circumstances that may be encountered or apply to the situation. The choices of enforcement action are:

- Informal Warning
- Reduction in Capacity
- Prohibition Notice
- Simple Caution
- Prosecution

The following gives a more detailed explanation of each of the enforcement options:

### **Informal warning**

Informal action includes offering advice, verbal warnings and requests for action, the use of letters/informal notices and reports.

Informal action is appropriate where:

- the act or omission is not serious;
- it can reasonably be expected that informal action will achieve compliance;
- confidence in the business management is reasonably high; and
- the consequences of non-compliance will not pose a significant risk to health, safety or the public.

An informal warning will be in the form of a written letter that clearly and in plain language will:

- contain all information necessary to ensure that the club/organisation knows what is required and why it is necessary;
- indicate the regulations contravened and the measures that will achieve compliance with the legal requirements and that other means of compliance may be chosen;
- where recommendations of good practice are included make it clear that they are not legal requirements; and
- set out the timescales for compliance.

### **Reduction in capacity**

Reducing the capacity of all, or part of, a sports ground is a formal action which would be appropriate in the following situations:

- if an incident suggests that the management of a sports ground is performing poorly; or
- if the Council's inspecting personnel identify any deficiencies in the fabric, equipment, records or management systems, which the authority has not already taken into account when accepting or calculating the permitted capacity.

Any new capacity should be properly calculated having regard to the change in circumstances and the procedures to be followed will be the same as during the routine annual review of the safety certificate. Ground management should be invited to submit its proposed revised (P) or (S) factor, but the Council reserve the right to overrule this if appropriate.

When reducing a capacity, it is important that officers act reasonably and in accordance with due process, not least because the certificate holder has a right of appeal against any reduction in capacity; and a formal amendment to the safety certificate is issued.

Once the remedial measures or improvements have been implemented consideration should be given to restoring the original capacity.

### **Prohibition notice**

Unlike the other provisions of the 1975 and 1987 Acts, the power to issue a prohibition notice applies to all sports grounds, as defined in section 17 of the 1975 Act, including those that are neither designated nor contain a regulated stand.

Section 10B of the 1975 Act empowers the Council to issue a prohibition notice in respect of all or part of any sports ground if it considers that “the admission of spectators to a sports ground or any part of a sports ground involves or will involve a risk to them so serious, that, until steps have been taken to reduce it to a reasonable level, admission of spectators to the sports ground or that part of the sports ground ought to be prohibited or restricted”. A prohibition notice is therefore a measure of last resort and should only be used where an amendment of the safety certificate (where issued) is not considered an effective way of dealing with the risk(s).

When issuing a prohibition notice consideration should be given as to whether the risk to spectators is or may be imminent and if so the notice should take effect as soon as it is served. In all other cases it should come into force at the end of the period specified in the notice.

A prohibition notice must specify:

- the nature of the risk to spectators; and
- the number of spectators that may be admitted to the sports ground, or any part of the sports ground, until appropriate steps have been taken to address those risks.

The notice may also include directions as to the steps which will have to be taken to reduce the risk to a reasonable level.

Under the Environment and Safety Information Act 1988 the local authority is required to keep a register of any prohibition notices that it has issued.

### **Simple cautions (formerly known as formal cautions)**

A simple caution should only be issued for offences where there is no imminent risk or where the offence is readily admitted and immediate action has removed the imminent risk. A caution can be used to:

- deal quickly and simply with less serious offenders;
- to divert them from unnecessary appearance in the criminal courts, and
- to reduce the chances of their re-offending

A record of the caution is required to be kept on the Council’s computer system.

If the offender commits a further offence, the caution may influence our decision to take a prosecution.

Simple cautions should not be used as an alternative to prosecutions where insufficient evidence is available. Officers should be prepared to prosecute where an individual or business refuses to accept a simple caution.

More information can be found in Home Office Circular 016/2008 – “Simple Cautioning Adult Offenders”

## **Prosecution**

The decision to prosecute is very significant and must be related to risk. In general, it should be reserved for those who:

- blatantly disregard the law;
- refuse to implement basic legal requirements and who put the public at risk.

Factors to consider are:

- The seriousness of the offence, including the seriousness of the result of the offence.
- The previous history of the defendant/organisation.
- Availability, co-operation and reliability of witnesses.
- The willingness of persons involved to put matters right.
- The probable public benefit and importance of the case.
- Whether other action e.g. prohibition notices would be more effective (It may be appropriate in some circumstances to serve a prohibition notice as well as to prosecute if the risk to employees or the public remains high).
- Any explanation offered by the defendant/organisation.

Before deciding to proceed with a prosecution officers must be satisfied that there is relevant, admissible, substantial and reliable evidence that the offence has been committed by the defendant and that there is a realistic prospect of conviction. Any prosecutions should be brought without delay.

## **9. Appeals**

Appeals against a reduction in capacity imposed by way of an amendment to a safety certificate or against a prohibition notice are to a Magistrates Court. Where an appeal is made against an amendment to a safety certificate the amendment cannot take effect until the appeal is heard. However, in the case of an appeal against a prohibition notice any reduction in capacity remains in place until the appeal is heard.

## **10. Penalties**

It is an offence for any responsible person, not merely the certificate holder, to contravene the terms and conditions of a safety certificate or a prohibition notice. These offences and associated penalties, along with the defences of absence of consent and due diligence, are listed in section 12 of the Safety of Sports Grounds Act 1975 and section 36 of the Fire Safety and Safety of Places of Sport Act 1987.

## **11. Suitably trained and competent staff**

Individual officers who undertake enforcement duties under the 1975 and 1987 Acts will be suitably trained and qualified to ensure their competency.

The Council will ensure that:

- duties are specified in job descriptions and experience is built-up over time with provision made in individual appraisal for monitoring progress;
- all advisers have professional qualifications, experience in other sectors and are on continuous professional development cycles as well a regular participation in sports grounds work; and

## **12. Revisions to this Document and Review**

This policy and procedures will be reviewed at intervals not exceeding 12 months and amended at any stage to reflect any changes that may occur in operation procedure or to current legislation.

Following any amendment, a complete replacement will be distributed.

Prepared by: B Simpson, S & P Stadia Consultants

Approved by:

Date of Issue:

Date of last review:

Reviewed by: