

## London Borough of Hammersmith and Fulham

### Safety in Sports Grounds Enforcement Policy

#### 1. Introduction

This enforcement policy sets out the arrangements that Hammersmith and Fulham Council (“the 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, where this legislation applies. In applying this policy the Council’s aim is to ensure that any enforcement action taken is proportionate, open, consistent and clear.

So as to provide a full understanding of the Safety at Sports Grounds role carried out by the Council this document should be read in conjunction with the following policies:

#### **Safety at Sports Grounds Monitoring and Inspection Issue of General Safety Certificate**

#### 2. Legislation and guidance

This policy 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 - 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](#)” (the “Green Guide”) published by the Sports Grounds Safety Authority.

#### 3. Scope

The sports grounds primarily covered by these arrangements are:

**Chelsea FC at Stamford Bridge Stadium Fulham Road SW6 1HS**  
**Fulham FC at Craven Cottage Stadium Stevenage Road SW6 6HH**  
**Queens Park Rangers FC at Loftus Road Stadium South Africa Road W12 7PJ**

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1.0	Karen Ashdown	August 2016	August 2017	Ann Ramage - Bi Borough Head of Environmental Health Commercial

Under the provisions of section 10 of the Safety of Sports Grounds Act 1975 the Council has, under certain circumstances, the power to issue a Prohibition Notice to limit the capacity or totally prohibit the admittance of spectators to any sports ground within the London Borough of Hammersmith & Fulham.

#### 4. Definitions

The 1975 Act defines a **sports ground** as a place where sports and 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 Fire Safety and Safety of Places of Sport Act 1987 as any covered stand at a sports ground with accommodation for 500 or more spectators, whether seating or standing.

The **Safety Advisory Group** (SAG) is a multi-agency advisory group consisting of members of local authority staff and representatives of the emergency services, transport providers and other agencies as appropriate. Membership of the SAG is detailed in the SAG Terms of Reference document for each football club, available on the Council's website [www.lbhf.gov.uk](http://www.lbhf.gov.uk).

#### 5. 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 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 or Council officer.

Officers will have due regard to the principles contained within the [Regulators Code](#) (Better Regulation Delivery Office), and any other published and relevant guidance, including:

#### [Environmental Services Enforcement Policy](#)

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

- their views about the circumstances in which enforcement action is deemed appropriate

- the nature and extent of any harm or loss, and its significance relative to the individual circumstances.

The 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.

## 6. 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:

### Bi-Borough Head of Environmental Health Commercial

### Food Safety and Health and Safety Environmental Health Officers

## 7. Consistency

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

**Proportionality** 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.

**Targeting** By adopting a risk based system for prioritising regulatory action the Council aims to make sure 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.

**Transparency** 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 Council.

**Accountability** 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. The Council will detail performance at the bi-annual Safety Advisory Group meetings.

**Helpfulness** The Council will work to help duty holders to comply with the law by providing advice and guidance and working in partnership to actively support businesses to comply without imposing unnecessary burdens.

## **8. Risk assessed approach to enforcement**

Environmental Health will enforce against or prosecute those who neglect or wilfully fail to comply with their legal obligations where that failure constitutes a risk to the public or where action is required to minimise the risk. Environmental Health Officers will seek to adopt efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens. The level of enforcement will be proportional to any alleged offence committed, consistent in application (including consistency with other local authorities or enforcement agencies), transparent in its use and appropriate to the circumstances of the particular case in question.

In terms of Sports Grounds legislation the Council will prioritise inspection activity on high risk fixtures which pose the highest threat to public safety.

## **9. Enforcement considerations**

The Council officers will consider a number of factors and questions before deciding when to act. These questions will include:

- The seriousness of compliance failure. 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. Does the individual or organisation concerned appear to be willing to carry out the necessary action immediately or in a specified time frame? Has the problem resulted from deliberately ignoring conditions or the law?
- Management past performance and current practice. Have previous recommendations been followed? Is this a recurring problem? Has the business had a previous high standard of practice?
- The risks being controlled and the consequence of failure. What types of risks are involved? 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 Council legal department for their consideration and interpretation?

## **10. Choices of enforcement action**

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

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

### **10.1. Informal action**

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
- the consequences of non-compliance will not pose a significant risk to health, safety or the public,

Any informal warning will be in the form of a written letter that clearly explains the non-compliance which:

- contains all the information necessary to ensure that the club/organisation knows what is required and why it is necessary;
- indicates the regulations contravened and the measures that will achieve compliance with the legal requirements and that other equally effective means of compliance may be chosen;
- makes clear distinction between recommendations of good practice and legal requirements
- sets out the timescales for compliance.

#### 10.2. **Reduction in capacity**

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

- after an incident which suggests that the management of a sports ground is performing poorly; or
- where the Council officer identifies 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; and/or
- where the management of the sports ground have not rectified previously identified issues of non-compliance within an agreed timescale.

Any revised 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. Sports ground management should be invited to submit its proposed capacity, but the Council reserves the right to overrule this if deemed appropriate.

When reducing a capacity it is important that:

- Council 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
- 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, through a re-application by the certificate holder.

#### 10.3. **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 10 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 risks to spectators
- 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 Prohibition 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 Council is required to keep a register of any Prohibition Notices that it has issued.

#### 10.4. **Simple caution**

A simple caution (formerly known as a formal 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 simple caution can be used to:

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

A record of the simple caution is required to be kept by the Council. If the offender commits a further offence, the simple caution may influence the Council's decision to take a prosecution.

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

More information can be found in The Ministry of Justice Guidance [Simple Caution for Adult Offenders](#).

#### 10.5. **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

- who put the public at serious 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 take a prosecution Council officers must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by the defendant and that there is a realistic prospect of conviction. Any prosecutions should be brought without undue delay.

## **11. 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.

## **12. 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.

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

Council 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 Council officers and advisers have professional qualifications, experience in other sectors and are on CPD cycles as well as a regular participation in sports grounds work and SAGs
- appropriate succession planning is in place to ensure that Council officers have the necessary training and experience to undertake the roles they may be expected to undertake.

## **14. Policy revisions and review**

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