

DRAFT OF Policy Document HAMPSHIRE COUNTY COUNCIL Enforcement Policy – Safety at Sports Grounds

January 2014

1. Introduction

This policy explains our powers and approach to ensuring compliance with the relevant safety at sports grounds legislation. It sets out the steps we will take when we find an infringement of such legislation.

2. Legislation and guidance

The relevant legislation that applies to sports grounds safety enforcement and which should be read in conjunction with this policy is appended to this policy in Appendix 1.

3. Definitions

The Safety at Sports Grounds Act 1975 (as amended) (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 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 sports grounds.

A Regulated Stand is defined in the Fire Safety and Safety of Places of Sport Act 1987 (as amended) (the “1987 Act) as any covered stand at a sports ground, other than a designated 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 representation from Statutory Consultees - Hampshire Police, Hampshire Fire & Rescue Service, the relevant district council (normally the Building Control Function), and the local ambulance service or private first aid medical provider to the club.

4. Purpose

The purpose of this policy is to ensure that the law is applied in a fair, equitable and consistent manner and to assist officers as to 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.

Unless the circumstances require immediate action, 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.

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

Officers will have take into consideration the principles contained within the Enforcement Concordat, and any other published and relevant guidance. The Enforcement Concordat can be found online at the following address:
<http://webarchive.nationalarchives.gov.uk/+http://www.berr.gov.uk/bre/inspection-enforcement/implementing-principles/regulatory-compliance-code/enforcement/page46822.html>

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

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

5. Scope

The sports grounds in Hampshire covered by these arrangements are:

(i) Designated Sports Grounds:

Aldershot Town Football Club (Designated Ground)
Ageas Bowl, Hampshire County Cricket Club (Designated Ground)

(ii) Grounds with Regulated Stands:

Farnborough Football Club (4 Regulated Stands)
Basingstoke Town Football Club (1 Regulated Stand)
Eastleigh Football Club (1 Regulated Stand)
Havant & Waterlooville Football Club (4 Regulated Stands)

Thrupton Motor Racing Circuit (2 Regulated Stands)

- (iii) Any other sports grounds other than (i) and (ii) within the meaning of the 1975 Act.

6. Delegated powers

The Council has delegated its powers for the enforcement of the 1975 Act and the 1987 Act to:

The Director of Policy and Governance.

7. The Principles of Enforcement

The Council will seek to ensure that enforcement is firm but fair. Any action 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.
- **Consistent** – in relation to advice tendered, use of enforcement powers as well as in response to incidents and complaints. We will review our enforcement decisions and policies both internally and where appropriate, with other authorities and enforcement bodies.
- **Targeted** – We have adopted a risk based system for prioritising regulatory action. We aim to ensure that our regulatory effort will take account of the level of risk.
- **Transparent**– We will be open about our working methods. When providing information and/or advice we will do so in plain language so that those we regulate understand what is expected from them and what they can expect from us.
- **Accountable** – We will justify all enforcement decisions and be accountable for the efficiency, effectiveness and cost. We will give provide opportunities for consultation and feedback opportunities are given to applicants for Safety Certificates and members of relevant Safety Advisory Groups.

8. Our Approach to Enforcement

We have a risk based approach to enforcement. This means that before undertaking any activity we will consider both the :

- the potential impact of non-compliance; and
- the likelihood of non-compliance.

Before deciding how to act our officers will consider a number of factors including:

- the seriousness of compliance failure.
- the degree of wilfulness involved
- the individual/ organisation past history.
- legal, statutory and /or other Government guidance.

9. Types of Enforcement Action

Depending upon the circumstances we are able to take a variety of actions:

- Issue an Informal Warning
- Issue a Letter amending the Safety Certificate by advising of a Reduction in Capacity.
- Issue a Prohibition Notice
- Issue a Simple Caution
- Commence Prosecution

Informal warning

This can include offering advice, giving a verbal warning or issuing a request for action. Such action may be 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 of the public.

An informal warning will be in writing and in plain language. It will:

- contain the information required to ensure that the individual /organisation is aware what it they must do and why such action is necessary;
- the measures that will achieve compliance with the legal requirements and that other means of compliance may be chosen;
- if recommendations are made, it will be made clear 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 the Statutory members of The Safety Advisory Group consider the individual /organisation are not compliant with the requirements placed upon them by the legislation and relevant guidance;
- if an incident suggests that the management of a sports ground is performing poorly;
- 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 will be given to reassessing the capacity.

Prohibition notice

A copy of the guidance on prohibition notices is appended in Appendix 2.

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 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.

We are required to keep a register of any Prohibition Notices that we have issued.

Simple Caution

We will consider offering a Caution in circumstances where:

- there is no imminent risk; or
- where the offence is readily admitted and immediate action has removed the imminent risk; and
- the offender has agreed to be cautioned; and
- the offence has not been committed before

We are required to keep a record of the Caution.

Guidance on Cautions for Adult Offenders is appended in Appendix 2

Prosecution

We will use our discretion in deciding whether to bring a prosecution. The decision to prosecute is very significant and must be related to risk. Usually it will be reserved for those who

- blatantly disregard the law;
- refuse to implement basic legal requirements and who put the public at risk.
- disregard the requirements of The Safety Certificate and/or disregard the capacity therein.

The decision to prosecute will be taken by the Director of Policy and Governance.

A number of factors will be taken into consideration these are:

- the seriousness of the offence, including the seriousness of its consequences.
- the previous history of the individual /organisation
- the willingness of those involved to put matters right.
- the probable public benefit and importance of the case.
- whether another form of action would be more effective .
- any explanation offered by the defendant/organisation.

Any prosecution will be brought without delay. 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

10. Appeals

Appeals against a reduction in capacity by way of an amendment to a Safety Certificate or against a Prohibition Notice are to court. In the case of an appeal against an amendment to a Safety Certificate the amendment cannot take effect until the appeal is heard.

Where the appeal is against a Prohibition Notice that notice will remain in place until the appeal is heard.

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.

12. Revisions to this Document and Review

This Policy and Procedure 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.

Date of Issue:2014

HAMPSHIRE COUNTY COUNCIL

Enforcement Policy – Safety at Sports Grounds. APPENDIX 1

Applicable Legislation:

1. The Safety of Sports Grounds Act 1975
2. The Fire Safety and Safety of Places of Sport Act 1987
3. The Safety of Places at Sports Regulations 1988

HAMPSHIRE COUNTY COUNCIL

Enforcement Policy – Safety at Sports Grounds.

APPENDIX 2: Government Guidance

1. DCMS Circular 16 November 1995 on Prohibition Notices.
2. Home Office Circular Simple Caution for Adult Offender guidance (MoJ Guidance)