



BARNSLEY
Metropolitan Borough Council

POLICY AND PROCEDURES

MANAGING SAFETY AT DESIGNATED SPORTS GROUNDS AND REGULATED STANDS

June 2016

Introduction

This policy document has been produced by the Building Control Section, Barnsley Metropolitan Borough Council ('the Council'), and is the agreed policy and procedure for managing the safety of spectators at Designated Sports Grounds and Regulated Stands within the borough.

Policy Aim

The Council's policy aim, working in conjunction with its partner agencies, is to ensure the reasonable safety of spectators attending any Designated Sports Ground or Regulated Stand.

Designated Sports Ground

The Secretary of State for Culture, Media and Sport (DCMS) may designate any sports ground, which in his/her opinion has accommodation for more than 10,000 spectators, or 5,000 in the case of Premiership or Football League grounds in England and Wales as a 'Designated Sports Ground'.

The Secretary of State will normally be aware of any major new sports grounds under construction but may not always have been informed of developments that might increase the capacity of an existing sports ground above the threshold for designation. It is the responsibility of the Council to notify the Secretary of State of any sports ground likely to require designation.

As part of the designation process, (which takes a minimum of 10 weeks to complete), the Secretary of State will formally consult with the Council, the sports ground owner, the emergency services and where it will have a statutory role, the Sports Grounds Safety Authority (SGSA).

The designation order remains in force unless it is formally revoked by the Secretary of State. If a designated sports ground is demolished or is permanently modified, so as to reduce the capacity below the threshold, the Council will formally notify the Secretary of State and request that it be de-designated. Should the Council fail to do so, the certificate holder may apply directly to the Secretary of State.

Regulated Stand

A 'Regulated Stand' is any covered stand within a sports ground, with accommodation for 500 or more spectators, whether seated or standing. It is the

responsibility of the Council to determine whether any of the stands at sports grounds within its area qualify as regulated stands.

In determining the occupancy of a stand, the Council will have regard to the Home Office Circular 97/1988, which gives detailed statutory guidance on how to determine whether or not a stand provides accommodation for 500 or more spectators. In the final determination the actual occupancy may be substantially lower than the anticipated capacity and may even fall below 500 persons.

Current Designated Sports Grounds in Barnsley:

- Barnsley Football Club – The Oakwell Stadium

Current Sports Grounds in Barnsley with a Regulated Stand:

- Barnsley Football Club – Covered Stand, The Oakwell Training Ground

Legislative, Guidance and Legislative Duty

This policy and agreed procedures in respect of safety of sports grounds should be read in conjunction with the following legislation:

- Safety of Sports Grounds Act 1975 (as amended) – ‘the 1975 Act’
- Fire Safety and Safety of Places of Sport Act 1987 – ‘the 1987 Act’
- 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.
- The annual inspection of a designated sports ground will include all items detailed in the Secretary of State’s statutory guidance set out in Home Office

Circular 72/1987. For regulated stands the inspection will cover the items in the statutory guidance set out in Home Office Circular 97/1988.

Under the Safety of Sports Grounds Act 1975 (as amended) the Council has a duty to:

- Issue a general safety certificate for each designated sports ground within the borough, containing such terms and conditions that the Council consider necessary or expedient to secure reasonable safety.
- Issue a special safety certificate where appropriate.
- Serve a prohibition notice in respect of any sports ground if the authority considers that the admission of spectators to the sports ground or any part of the sports ground involves or will involve risk to them so serious that, until steps have been taken to reduce it to a reasonable level, admission of spectators to the ground or that part of the ground ought to be prohibited (or restricted).
- Amend/replace and/or transfer any general safety certificate as and when appropriate.
- Enforce the terms and conditions of the general safety certificate/special safety certificate.

Under the Fire Safety and Safety of Places of Sport Act 1987, the Council has similar duties to those outlined above in relation to regulated stands at non-designated sports grounds.

Safety Advisory Group

In accordance with the recommendations of Lord Justice Taylor in his Final Report of the Inquiry into the Hillsborough Stadium disaster, the Council has established Safety Advisory Group (SAG) to provide it with specialist advice on how it may effectively discharge its responsibilities under the 1975 and/or 1987 Acts. The SAG also provides an essential forum within which the Council and other agencies may develop a consistent approach to spectator safety.

SAG meetings are chaired by the Council; the group is composed of core members from the emergency services along with invited representatives including those from the ground management and the Sports Grounds Safety Authority.

The SAG terms of reference identifies roles and responsibilities:

Appendix A: Safety Advisory Group Terms of Reference

General Safety Certificates

If a sports ground has been designated by the Secretary of State, or if the Council has determined that a stand within an undesignated sports ground is a regulated stand, then that ground or stand will require a general safety certificate.

Delegated Powers

The Council has delegated its powers for the issue, replacement, amendment, suspension or revocation of a General Safety Certificate to:

- The Director of Legal and Governance

Issue and Review of General Safety Certificates

Set out below are the arrangements that the Council has put in place for ensuring compliance with the relevant sports ground legislation and to enable an application for a safety certificate is dealt with effectively and efficiently.

Safety certificate applications and information required

Application forms for a safety certificate under either the 1975 Act or 1987 Act are accessible on the Council's website.

Appendix B: BMBC General Safety Certificate Application Form

Applications are processed through the Council's Building Control Service. The Council must supply the Chief Officer of Police and the Fire Authority with a copy of any application received. It will also formally consult them about the terms and conditions of the certificate. The normal forum for this consultation will be the SAG. 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.

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 therefore 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.

Timetable

There is no set legal time limit for issuing a safety certificate and the time taken to issue a certificate can vary depending upon the quality of the documentation provided and complexity of the proposals. The Council would expect to provide a considered response to any application within about six weeks of receipt.

Contents of the 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 SAG 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”.

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.

Review of the 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 the Group Leader, Building Control, who shall consult with members of the SAG, the Holder and other relevant bodies and services. The outcome of the review shall be recorded.

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; and
- the fire 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.

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 CPD cycles as well as regular participation in sports grounds work and 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.

Special Safety Certificates

The general safety certificate should cover any event, both sporting and non-sporting that is held regularly at the sports ground. Where it is intended to hold an event of a type not specified in the general safety certificate, an application should be submitted to the local authority for a 'special safety certificate'. The process for the issue of a special safety certificate is similar to that for a general safety certificate.

Unless the applicant is already the holder of a general safety certificate, the Council must first determine whether he or she is a qualified person. Irrespective of this determination, the Council has the discretion to refuse to issue a special safety certificate. In reaching its decision, the Council must act reasonably. The applicant has the right to appeal within seven days against any refusal.

In issuing a special safety certificate, the Council may need to set a different capacity for certain events compared with that promulgated in the general safety certificate.

The applicant will be required to supply whatever information the Council needs in order to discharge its functions. This should include details of any proposed changes to the normal accommodation or arrangements, in particular to the safety systems,

crowd management and stewarding, toilet and medical provision and fire precautions and, where necessary, be supported by relevant specific risk assessments.

Fees

The Council will charge a fee for the issue, amendment, replacement or transfer of a safety certificate. Any fee will be commensurate with the work actually and reasonably done by or on behalf of the local authority. The Council may also charge for amending a safety certificate if the amendment was at the request of the certificate holder.

Responsibility for Safety

The primary responsibility for the safety of spectators at the sports ground rests at all times with the sports ground management. The responsibility for safety will not be assumed by the Council.

For the purpose of the Safety of Sports Grounds Act 1975 (as amended), in respect of the Oakwell Stadium and Oakwell Training Ground Covered Stand, the responsible (qualified) person is the Chief Executive of Barnsley Football Club 2002 Ltd.

Monitoring by the Council

The Council must monitor the holder's compliance with the terms and conditions of the safety certificate and under the 1975 Act. 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.

Delegated powers

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

- Building Control Group Leader, Place Directorate

Annual Inspection

An inspection will be undertaken of each designated ground at least once every 12 months.

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.

In addition to the officer with delegated authority, representatives of the emergency services will also be invited to take part in the inspection.

The inspection of designated sports grounds will include items detailed in the Secretary of State's statutory guidance as set out in Home Office Circular 72/1987. For regulated stands the inspection 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.

The physical inspection of the sports ground by the Council in compliance with the Home Office Circulars is not to duplicate work that should be undertaken on behalf of the certificate holder. Instead it is for checking that the sports ground and its fittings have been properly maintained and, ideally, for noting and agreeing remedial action on problems already identified by the certificate holder. Whilst it will normally be sufficient for the Council to inspect the structures and fittings once a year while the

sports ground is empty, further inspections are likely to be necessary in the event of significant structural modifications.

The Council remains free to carry out sample testing if it considers this to be necessary.

During Performance Inspection

During Performance Inspections will be made periodically, 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. On top of this, the Council will also monitor other general matters such as:

- the competence of the safety officer;
- the competence of the stewards; and
- whether there are effective systems for identifying and tackling problems.

For designated sports grounds, the 1975 Act defines periodical as "at least once every twelve months". There is nothing to preclude the Council from inspecting the sports ground more frequently; this will be for the Council to determine, having regard to its duty to monitor the suitability of the terms and conditions of the certificate and to ensure that these are being observed. The frequency of during performance inspections will be risk-based taking into account of the safety management culture at the ground and ground management's compliance with the safety certificate.

The indicative minimum number of during performance inspections to be carried out by the Council over the football season in respect of the Oakwell Stadium is to be four. The criteria in deciding which specific fixtures the Council attends will include:

- *Time of fixture in the football season, e.g. beginning of a season*
- *Envisaged attendance of the ground, i.e. full/part*
- *High/low profile fixture*
- *Policing levels, e.g. a police free fixture*
- *Daytime/Evening fixture*
- *Televised fixture*
- *Following specific concerns in respect of observance with the safety certificate.*
- *Following improvements or alterations to the ground*

Inspecting officers are required to keep records of all inspections are to be kept as part of an audit trail - the Match-day inspection record sheet provides inspecting officer an aid memoire to capture any significant findings as a result of the during performance inspection.

Appendix C: Match-Day Inspection Record Sheet used in respect of the Oakwell Stadium.

The responsibility for the safety of spectators lies at all times with the holder of the safety certificate. Where breaches in the terms and conditions of safety certificates are noted, these will immediately be brought to the attention to the duty safety officer. Under such circumstances, these will be followed up in writing to the holder/safety officer.

Enforcement

The Council has a range of options to deal with incidents which put the public at risk, safety weaknesses and breaches of safety certificate terms and conditions. Any action the Council takes in respect of enforcement should be proportionate and fairly applied. The Council should be able to justify all its enforcement decisions.

Enforcement considerations include:

- The seriousness of compliance failure
- The degree of willfulness involved
- The ground management's past performance and its current practice
- The risks being controlled and there consequence
- Legal, official or professional guidance

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

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

Reduction in capacity - Reducing the capacity of all, or part of, a sports ground is a formal action and is done by the application of reduction factors on capacity relating to the physical condition (the (P) Factor) and the quality of the safety management (the (S) Factor) of the sports ground.

Any new capacity will be calculated having regard to the change in circumstances. Ground management should be invited to submit its proposed revised (P) or (S) factor, but the Council reserves the right to overrule this if appropriate.

When reducing capacity, a formal amendment to the safety certificate will be issued by the Council. Once the remedial measures or improvements have been implemented consideration will be given to restoring the original capacity.

The certificate holder has a right of appeal against any reduction in capacity.

Prohibition notice - 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 spectators cannot be accommodated in reasonable safety. The prohibition may be general or may apply to a particular event. The issue of a prohibition notice applies to all sports grounds, including those that are neither designated nor contain a regulated stand.

A prohibition notice is a measure of last resort and will only be used where an amendment of the safety certificate (where issued) is not considered an effective way of dealing with the risk(s). Consideration will 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 will 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.

Any person aggrieved by a prohibition notice may appeal against the issuing of it.

Simple cautions - A simple caution will 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 record of the caution is required to be kept by the Council. If the offender commits a further offence, the caution may influence any 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 will be reserved for those who

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

Other 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.

Delegated powers

The Council has delegated its duties and 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 Head of Planning and Building Control. In the interests of the Council, and for the better performance of such duties and powers, these duties and powers have been sub-delegated to:

- the Group Leader Building Control, Place Directorate

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.

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.

Regulatory Reform (Fire Safety) Order 2005

The Order covers general fire precautions and other fire safety duties which are needed to protect persons in case of fire in and around premises, including sports grounds. The Order requires fire precautions to be put in place to the extent that it is reasonable and practicable. The identified 'responsible person' must carry out a fire risk assessment which must focus on the safety in case of fire of all 'relevant persons'. The fire risk assessment should identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions needed to be taken.

For the purpose of the Regulatory Reform (Fire Safety) Order 2005, for the Oakwell Stadium and Oakwell Training Ground Covered Stand, the responsible person is the Chief Executive of Barnsley Football Club 2002 Ltd.

In respect of designated sports grounds and regulated stands the Council is the enforcing authority. As the enforcing authority, the Council has powers to inspect in order to check that the certificate holder is complying with their fire safety duties under the Order. If the Council is dissatisfied with the outcome of a fire risk assessment, or any actions taken, it may issue an enforcement notice that requires identified improvements or, in extreme cases, a prohibition notice that restricts the use of all or part of ground/stand/premises until the required improvements are made.

Failure to comply with any duty imposed by the Order or any notice issued by the Council is an offence. A right of appeal exists to the magistrates court against any notice issued by the Council under the order.

Delegated powers

The Council has delegated its duties and powers for the enforcement of the Regulatory Reform (Fire Safety) Order 2005 to the Head of Planning and Building Control. In the interests of the Council, and for the better performance of such duties and powers, these duties and powers have been sub-delegated to:

- the Group Leader Building Control, Place Directorate

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.

Tim Cliffe

Group Leader Building Control

June 2016

Following any amendment a complete replacement will be distributed.

Date of Issue –

Date of last review –

Reviewed by -