



Walsall Council

LICENSING AND SAFETY COMMITTEE

15TH APRIL 2009

REPORT OF THE HEAD OF PUBLIC PROTECTION

SPORTS GROUNDS SAFETY CERTIFICATES

AND

WALSALL FOOTBALL CLUB (LTD) STADIUM SAFETY ADVISORY GROUP

1.0 PURPOSE OF REPORT

- 1.1 The report seeks to set out the role of local authorities relating to the certification of sports grounds, to advise Members of the respective roles of Safety Advisory Groups and the Licensing Committee in protecting public safety at sports grounds, and to review the arrangements for the town's sports ground namely; Walsall Football Club, certified under the Safety of Sports Grounds Act 1975 within the sphere of responsibility of this Committee.
- 1.2 The report also seeks approval for the proposed implementation of arrangements to ensure compliance with current Football Licensing Authority (FLA) guidance concerning the outcome of formal annual inspections and reviews of the safety certificate to coincide with the new municipal year in 2009.

2.0 RECOMMENDATIONS

- 2.1 Members are recommended to approve the proposals contained in paragraph 4 of the report relating to the arrangements for the discharge of the Council's functions in respect of certified sports grounds and the role and constitution of the Safety Advisory Group.

3.0 BACKGROUND

- 3.1 There are two principal statutes that place responsibilities on local authorities to issue and enforce safety certificates at sports grounds:
 - **The Safety of Sports Grounds Act 1975** which was a response to the Wheatley Report following the Ibrox disaster in 1971 when 66 people were killed. The Act required all sports grounds designated by the Secretary of State, with accommodation for over 10,000 spectators to have a "safety certificate."

- **The Fire Safety and Safety of Places Sport Act 1987** which extended the above requirement to include all stadia with covered stands accommodating over 500 spectators. This was a response to the Bradford fire disaster in 1985 where 52 people lost their lives.

- 3.2 After the tragedy at Hillsborough in 1989 where 96 fans lost their lives, the Taylor report recommended, amongst other things, the creation of **Safety Advisory Groups** and a move to all seater stadia. The role of the Safety Advisory Group (SAG) is therefore to develop as a body of expertise and to provide an advisory forum within which the local authority can maintain a consistent approach to spectator safety. Recent Football Licensing Authority (FLA) guidance has made it clear that all sports grounds, and not just football stadia, should have the benefit of a SAG. The SAG is not part of the Council's formal decision making or regulatory apparatus. Where decisions are required in relation to Safety Certificates they are made by Local Authority Officers or the Licensing Committee.
- 3.3 In determining an application for a Safety Certificate, local authorities are under a statutory duty to consult with the Chief Officer of Police, the Fire Authority and the Building Authority. It is also suggested that the views of the Ambulance Authority, the certificate holder and any regular users i.e. supporters' group, are also taken into account.
- 3.4 Safety Certificates set out, as conditions, both the safe capacity and what the holder must do in order to operate the sports ground at its permitted capacity. The certificate should cover all areas to which the spectators have access, including restaurants, bars and concourses etc. It should also cover any other area which the management of the sports ground has control over e.g. media facilities, car parks, offices. Safety Certificates shall also contain terms and conditions which are necessary or expedient to secure reasonable safety of the sports ground when it is used for its specified activity or activities.
- 3.5 The Police and the certificate holder are expected to agree and set out their respective roles in relation to spectator safety and public order. The local authority is not concerned with policing issues as such. If the Chief Officer of Police decides that officers need to attend a particular event and the management of the sports ground disagree, the local authority must consider whether the absence of Police would adversely affect the safety of spectators. If this appears to be the case, the local authority should close part or all of the sports ground, or reduce its permitted capacity for the event concerned.
- 3.6 Safety Certificates may be issued in respect of the use of a sports ground for an activity or number of activities which must be specified for either an indefinite period or for an occasion or number of occasions. This type of certificate is known as a General Safety Certificate, and although there is no provision to limit the period of a General Safety Certificate, it must be subject to formal reviews at least once a year and every time a public safety incident occurs.
- 3.7 Where it is intended to hold an event of a type not specified in the General Safety Certificate an application for a Special Safety Certificate should be made. In such cases there may be a need to set a different capacity and conditions depending on the events e.g. a pop concert or firework display.

4.0 REVIEW OF THE OPERATION OF THE WALSALL FOOTBALL CLUB (LTD) STADIUM SAFETY ADVISORY GROUP (WFCSSAG)

- 4.1 The Chair of the Safety Advisory Group is normally an officer from the local authority with the delegated powers and authority to act quickly and appropriately to protect public safety and prevent dangerous situations arising. However the SAG itself does not have any power to take decisions on behalf of the local authority.
- 4.2 It is expected that all other local authority staff and representatives of other agencies attending the SAG should be sufficiently senior and be able to speak with knowledge and authority. They should also be able to take non-policy related operational decisions on behalf of their departments and organisations. It is suggested that the local authority's health and safety enforcement representative should also attend.
- 4.3 In addition to local authority staff, Lord Taylor recommended that the consultees identified in 3.3 above i.e. Police, Fire Service, Building Control and Ambulance Service, together with, on an occasional basis, the certificate holder and representatives from any user group also attend the SAG.
- 4.5 Because of the importance of their role, SAGs should have written terms of reference and procedures. Accurate minutes should be made so as to establish an audit trail that verifies: -
- The annual inspection of the sports ground and annual review of the safety certificate have been completed;
 - Any safety issues have been addressed;
 - Any recommendations of the SAG have been reported to the local authority and actioned and;
 - The decisions of the local authority have been communicated to all interested parties, including the SAG.
- 4.6 In some cases, local authorities may wish to establish separate SAGs for each sports ground. However, due to the overlap in membership it is more common for a single SAG to cover several sports grounds.
- 4.7 There is presently one safety certificated sports ground in Walsall with the benefit of a General Safety Certificate, this is Walsall Football Club (Ltd) Stadium, the home of Walsall Football Club. Until December 2008, the Walsall Football Club (Ltd) Stadium Safety Advisory Group (WFCSSAG) was chaired by the Building Control Manager. This ground received an annual inspection at the start of the season in order that their safety arrangements could be reviewed before the start of the new football season.

- 4.8 Since December 2008, the role of Chair of the Walsall Football Club (Ltd) Stadium Safety Advisory Group WFCSSAG has transferred to the Head of Public Protection enabling full compliance with Football Licensing Authority guidance which recommends that Special Advisory Groups are chaired by an officer from the local authority with delegated powers to act quickly and appropriately to protect the safety of the public and prevent dangerous situations arising.
- 4.9 Accordingly, this report is being presented to Committee to confirm the current constitutional position that Licensing Committee has the power to issue, amend or replace safety certificates. Duly authorised officers will continue to carry out inspections and undertake enforcement as required.
- 4.10 This report also requests that Committee:
- approve the Constitution and Terms of Reference for the Walsall Football Club (Ltd) Stadium Safety Advisory Group set out in Appendix A as a technical group with no decision making powers, which provides a consultation forum to bring the relevant areas of specialist input associated with spectator safety.
 - approve the membership of Walsall Football Club (Ltd) Stadium Safety Advisory Group as set out in Appendix A
 - undertake to exercise their decision making powers on such matters as are raised by the Walsall Football Club (Ltd) Stadium Safety Advisory Group
 - receive minutes of Walsall Football Club (Ltd) Stadium Safety Advisory Group meetings in order to inform Licensing Committee of the more routine business considered by the group where decisions are not required.

5.0 ROLE OF THE FOOTBALL LICENSING AUTHORITY

- 5.1 Inspectors from the Football Licensing Authority (FLA) are available to attend meetings of the WFCSSAG in respect of those football grounds for which it has a statutory responsibility. These are currently the international, Premiership and Football League grounds in England and Wales. Walsall Stadium falls into this category. The FLA are independent advisors who are present only at the specific invitation of the local authority. This is made clear in the WFCSSAG's terms of reference.
- 5.2 The Football Licensing Authority has the task of keeping under review the discharge by local authorities of their safety certification functions under the 1975 Act. Under Section 13(2) of the 1989 Act it may require a local authority to include in any safety certificate such terms and conditions as it may specify in its written notice. Before exercising this power, the Football Licensing Authority must consult the local authority, the Chief Officer of Police and, where these are not the local authority, the Fire Authority or the Building Authority.
- 5.3 The Football Licensing Authority role goes much wider than ensuring that local authorities set and enforce such terms and conditions as are necessary for the reasonable safety of spectators. It promotes the adoption and maintenance of a safety culture and is a source of advice and good practice. The WCFSSAG meeting

is often the forum in which the Football Licensing Authority can best engage with and assist the local authority in a proactive and constructive manner.

6.0 ENFORCEMENT

6.1 Local authorities have a range of options to deal with incidents which put the public at risk, safety weaknesses and breaches of safety certificate terms and conditions. All action by a local authority should be proportionate and in accordance with its own scheme of delegations and enforcement policy. The available enforcement options are:

- Reducing the permitted capacity of all or part of the sports ground;
- The issue of a prohibition notice; and
- In the event of a breach of safety certificate conditions, a warning, formal caution or prosecution.

In extreme cases, where none of the above would sufficiently control an expected public safety hazard, local authorities also have the option of seeking an injunction.

6.2 The existing scheme of delegations, relating to the functions of this Committee, stipulate that all of these enforcement options, provided they are within established policy guidelines may be discharged by authorised officers.

6.3 Rights of appeal exist in respect of prohibition notices and any reduction in capacity.

7.0 FINANCIAL IMPLICATIONS

7.1 Under the Safety of Places of Sports Regulations 1987, local authorities are able to determine the fee to be paid in respect of an application for the issue, amendment, replacement or transfer of a Safety Certificate, or the cancellation of a Safety Certificate for a regulated stand. The fee shall not exceed an amount commensurate with the work for actually and reasonably done by or on behalf of a local authority in respect of the application. However, the local authority may only charge for amending the certificate in response to an application from the proposed or existing certificate holder.

8.0 POLICY IMPLICATIONS

8.1 None

9.0 LEGAL IMPLICATIONS

9.1 Legal Services have been consulted on the contents of this report.

9.2 Statutory controls over the use of sports stadia were introduced after a number of serious incidents during the 1970's and 1980's.

- 9.3 The responsibility for the issue of Safety Certificates is a non-executive matter which rest with the Licensing committee.
- 9.4 The regulation of compliance with the Safety Certificate is also a non-executive function which rests with officers in accordance with the applicable scheme of delegations. Operationally, this is delivered through officers within the Licensing sections and Environmental Health which form part of Public Protection Service and Building Control officers from Regeneration. More significant decisions, such as the refusal of a Safety Certificate, or to consider substantial amendments to a Certificate remain issues that would be referred to the Licensing Committee to determine. The Assistant Director Legal services is authorised to approve the instigation of legal proceedings.
- 9.5 In line with Football Licensing Authority guidance there is a clear distinction between the operational/consultative basis of the Safety Advisory Group and the policy and decision making role of the Licensing and Safety Committee. Accordingly it is considered prudent that Members do not participate in WFCSSAG discussions, and receive appropriate briefings from the Safety Advisory group to assist Committee in exercising their decision making function.

10.0 RESOURCE IMPLICATIONS

- 10.1 There are no direct resource implications arising from the report. The costs of administration of the Walsall Football Club (Ltd) Stadium Safety Advisory Group Advisory Group are met from existing budgets. The proposed changes to the charging regime for the issue of new licences will have a negligible effect on Council budgets.

11.0 EQUALITIES IMPLICATIONS

- 11.1 This report has no direct equality implications as it relates to the way the Council discharges specific responsibilities across a range of sports premises.
- 11.2 All stadia are required to demonstrate full compliance with the access requirements of the Disability Discrimination Act.

12.0 ENVIRONMENTAL IMPLICATIONS

- 12.1 There are no environmental implications arising from this report.

13.0 BACKGROUND PAPERS

- 13.1 Football Licensing Authority Guidance.



WALSALL FOOTBALL CLUB (LTD) STADIUM ADVISORY GROUP

CONSTITUTION AND TERMS OF REFERENCE

1.0 ROLES AND RESPONSIBILITIES

- 1.1 The fundamental aim of the Council is to ensure the highest standards of spectator safety are in place at sports grounds within the Borough.
- 1.2 Responsibility for the function of sports ground safety certification rests with the Council's Licensing and Safety Committee.
- 1.3 The role of 'Lead Officer' for ensuring compliance with the statutory duties imposed by the Safety of Places of Sports Act 1987 has been delegated to the Head of Public Protection.
- 1.4 The Head of Public Protection also has responsibility for implementing the strategies and policies set by Licensing and Safety Committee in respect of all other aspects of sports grounds safety certification.
- 1.5 In line with Football Licensing Authority Guidelines on safety certification, a safety advisory group has been established to act specifically in relation to Walsall Football Club (Ltd) Stadium.
- 1.6 The group known as the Walsall Football Club (Ltd) Stadium Safety Advisory Group (WFCSSAG) has a direct link to Walsall's community objective of being safe and secure and will be operated in accordance with the Council's core values.
- 1.7 The role of the WFCSSAG is to act as a specialist forum to consider issues relating to the safety of spectators using Walsall Football Club (Ltd) Stadium and to advise the Council in order that appropriate decisions can be made by the Head of Public Protection or other appropriately authorised officers in relation to spectator safety.

2.0 TERMS OF REFERENCE

- 2.1 The terms of reference of the Walsall Football Club (Ltd) Stadium Safety Advisory Group chaired by the Head of Public Protection are to:
 - Provide specialist advice to the Council so that it can discharge its duties under the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sports Act 1987.

- Provide a forum in which all the agencies concerned with spectator safety can develop a consistent and proportionate corporate approach to the matter;
- Undertake an annual inspection of the stadium and ensure that the inspection report is forwarded to the Head of Public Protection;
- Accurately record and minute all of its business, whether it relates to the work of the main group or any sub-group and ensure the minutes of all meetings are forwarded to the Head of Public Protection.
- To advise the Local Authority in the exercise of its powers under the Safety of Sports Grounds Act 1975, and the Fire Safety and the Safety of Places of Sport Act 1987 in respect of the safety certification.
- To advise the Local Authority as the enforcing authority as defined in the Health and Safety (Enforcing Authority) Regulations 1988 and Regulatory Reform (Fire Safety) Order 2005 for enforcement of the relevant statutory provisions.
- To advise the Local Authority in relation to its “duty of care” regarding sports grounds/public events that do not require to be certified/licensed.
- To provide advice and assistance to sports ground certificate holders, event license holders and event planners on public safety related issues.
- To provide a forum within which the Local Authority and other agencies may develop a co-ordinated approach to spectator safety.
- To receive and discuss all proposals for new sports grounds and public events, alterations to existing designated sports grounds/public events.
- To receive any relevant reports in relation to matters found during inspections by group members.
- Monitor that any matters raised by the group have been reported to the Local Authority, other relevant Authorities, certificate holders or, event license holders and that these matters are reported back to the group.
- To discuss any significant incident with potential safety implications or “near miss” at a sports ground/public event.
- To receive notification of the issue of any prohibition notice or any prosecution under sports ground/events legislation.
- To consider the advice published in all available guidance comments.

3.0 MEMBERSHIP

3.1 The Walsall Football Club (Ltd) Safety Advisory Group shall comprise of the following or their authorised representatives:-

- **Walsall Council**
 - Head of Public Protection
 - Environmental Health Manager
 - Building Control Manager
- **West Midlands Police**
 - Superintendent
- **West Midlands Fire Service**
 - Station Officer
- **West Midlands Ambulance Service**
 - Clinical Logistics Manager
- **Football Licensing Authority**
 - Appointed inspector by invitation as required
- **Walsall Football Club**
 - Head of Operations
 - Safety Officer
 - Stadium Manager

The views of the various spectator groups attending Walsall Football Club's 'Fans Forum' shall be represented at the Walsall Football Club (Ltd) Stadium Safety Advisory Group by officers of Walsall Football Club.

- 3.2 The quorum of the group shall be a minimum of three core members, one of whom must be the Head of Public Protection or her appointed nominee or the Environmental Health Manager.
- 3.3 The core group shall meet on at least four occasions each year plus at any other time deemed necessary by the Head of Public Protection, either on her or any other core member's request.
- 3.4 The Head of Public Protection or nominee or the Environmental Health Manager may, from time to time, convene an "Urgent Matters Group", at short notice, to consider any specific issue that falls within the general remit of the group or respond to incidents of concern or note. All meetings of the Urgent Matters Group shall be quorate and minuted. Minutes will be considered in due course, by the Licensing and Safety Committee.