

BIRMINGHAM CITY COUNCIL
REPORT OF THE ASSISTANT DIRECTOR
OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

10 APRIL 2019
EDGBASTON
ASTON
BORDESLEY AND HIGHGATE

SAFETY AT SPORTS GROUNDS ADVISORY GROUPS

1 **Summary**

- 1.1 In recent years this Committee has nominated elected members to sit on and chair Safety at Sports Grounds Advisory Groups. Nominations are made at the first meeting of the committee in the new municipal year
- 1.2 Safety at Sports Grounds Advisory Groups are multi-agency groups designed to ensure that designated sports grounds remain compliant with the conditions of their safety certificates. In Birmingham there are three designated sports grounds, namely Aston Villa FC, Birmingham City FC and Warwickshire County Cricket ground.
- 1.3 In May 2018 a question arose as to whether this committee could nominate an alderman of the city to chair an advisory group. Legal advice was obtained that confirmed that an alderman could not be nominated, but in considering the question it raised further questions about the advisability of any elected members being nominated to roles on Safety at Sports Grounds Advisory Groups in the light of their professional expertise relevant to the purpose of the role and the possible risks to them and the city council.
- 1.4 Officers were asked to seek further legal advice by the Committee. A recent incident at St Andrews when a spectator ran onto the pitch and assaulted a player has further highlighted the risks. Our legal advice has subsequently questioned the advisability of elected members being nominated to sit on such advisory groups.

2. **Recommendation**

- 2.1 That with immediate effect the nominations of elected members made by this Committee on 20th June 2018 to SAGs at Aston Villa FC, Birmingham City FC and Warwickshire County Cricket Club be withdrawn.
- 2.2 That an immediate review of the constitution, terms of reference and procedures for the SAGS be undertaken in accordance with Section 4.5 of the Guide to the Safety Certification of Sports Grounds (Appendix 1).

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3. Background

- 3.1 Section 1 of the Safety of Sports Ground Act 1975 ("**the 1975 Act**") governs "safety certificates" in relation to sports grounds issued under that Act. The responsibility for issuing a safety certificate lies with the relevant local authority. A safety certificate must set out the terms and conditions considered necessary or expedient to ensure the safety of spectators admitted to a given designated sports ground (Section 2). In Birmingham, safety certificates are issued through ACIVICO by a chartered surveyor.
- 3.2 In the Final Report of the Inquiry into the Hillsborough Stadium Disaster, Lord Taylor recommended that each local authority set up an advisory group (now generally known as the Safety Advisory Group). The SAG exists primarily to provide specialist advice to the local authority so that it may effectively discharge its functions under the 1975 and / or 1987 Acts.
- 3.3 The Sports Ground Safety Authority Act 2011 established the Sports Grounds Safety Authority which has published a "Guide to Safety at Sports Grounds", commonly known as "the Green Guide". The guide has no statutory force, but is primarily concerned with providing practical guidance for those tasked with responsibilities for safety at events.
- 3.4 Throughout the Guide, there is an emphasis on the importance of "competent persons" defined as follows: "A person shall be regarded as competent in an identified role where he or she has sufficient training and experience to meet the national occupational standards relevant to the tasks within that role. Competency includes an awareness of the limits of one's personal knowledge, skills or experience."
- 3.5 A glossary to the guide includes a definition of "Safety Advisory Group" as follows: "A multi-agency group formed at local level to ensure that a sports ground remains compliant with the conditions of its safety certificate and with other relevant national or international standards typically consisting of representatives of the local authority, the ground management, the police, fire and ambulance services, the building authority and, where appropriate, supporter organisations." The Guide emphasises that the responsibility for safety rests with management of the grounds.
- 3.6 The "Guide to the Safety Certification of Sports Grounds" (attached as Appendix 1), which is also produced by the Sports Grounds Safety Authority describes at Section 4 the function of advisory groups as existing "primarily to

provide specialist advice to the local authority so that it may effectively discharge its functions...” and as providing a forum within which the local authority and other agencies may develop a corporate approach to spectator safety at the sports grounds.

- 3.7 The Guide to the Safety Certification of Sports Grounds deals with membership of the Safety Advisory Group. On page 18 it sets out the responsibilities of the local authority, the safety officer and the Safety Advisory Group. Section 4.1 commences with the statement: ‘In accordance with its standing orders, the local authority may delegate its power to take and implement decisions on safety certification to a committee, sub-committee or to one or more particular officers, most commonly the officer who chairs the authority’s Safety Advisory Group (SAG)’. This implies that the safety officer would normally chair the SAG. Common practice in other local authorities is that a SAG is chaired by a local authority officer who is qualified in the field of sports ground safety.
- 3.8 Sections 4.3 and 4.4 of the Guide cover Safety Advisory Groups. Section 4.4 comments on the membership of SAGs as follows: ‘It is for the local authority to determine which member or officer shall chair the SAG. This individual should have the status and authority to act quickly where necessary as well as sufficient time to commit to the task. The other local authority staff attending the SAG should likewise be suitably senior, as should the representatives of the participating agencies and bodies. These should be able to speak with knowledge and authority and be empowered to take operational decisions on behalf of their organisations, save where these raise new policy issues’. The guidance notes that the SAG Chair or lead officer is somebody on whom “the local authority may depend heavily”.
- 3.9 Section 4.5 of the Guide deals with Management of the Safety Advisory Group. It states: ‘The SAG fulfils an important safety role. This could well come under scrutiny in the event of a serious safety failure at a sports ground. Accordingly, the SAG should be properly constituted, have written terms of reference and effective procedures. These terms of reference should encompass all matters falling within the purview of the local authority on stadium safety.

The local authority would also be well advised to identify the responsibilities and potential liability of the SAG and its members. It may wish to lay down written procedures for them to follow if they observe or are alerted to a safety weakness either during an inspection of a sports ground or when they are present in the course of their normal duties’.

- 3.10 A copy of Birmingham City Council’s current Safety Advisory Group Constitution and Safety at Sports Grounds Policy Document are attached as Appendices 2 and 3 respectively.

- 3.11 The key question on which the Guide invites the local authority to focus is the competence of the person concerned. In the light of the purpose of such advisory groups, that competence should be relevant to sports ground safety.

4. Conclusion

- 4.1 Although there is no rule of law or guidance that imposes formal legal requirements as to the competence or qualifications that a member of a Safety Advisory Group should have or that would prevent an elected member from being appointed to a Safety Advisory Group, having regard to the objects and purposes for which such groups are established, an elected member should have the relevant experience to be a “competent person” as described in the Guide. The functions of a Safety Advisory Group are (normally) of a highly technical nature which necessitates specialist knowledge and expertise from the Chair.
- 4.2 In practical terms, the risk of civil liability arising from membership of a Safety Advisory Group is likely to be reasonably low because responsibility for the safety of a particular grounds or event rests with the management of the sports ground; and responsibility for the certificate and enforcement rests with the local authority itself. Nonetheless, the possibility of liability cannot be excluded, and in the event of a decision that resulted in an accident, there remains a political and reputational risk to the local authority from appointing a member to the SAG who was not deemed to be ‘competent’. It is therefore recommended that the local authority should not nominate elected members to Safety at Sports Grounds Advisory Groups and that the role of Chair should be taken by the officer who is nominated by the authority to issue the safety at sports grounds certificate.

5. Consultation

- 5.1 In the preparation of this report officers have taken independent legal advice and have consulted the council’s officer for sports grounds safety.

6. Implications for Resources

- 6.1 No specific implications have been identified.

7. Implications for Policy Priorities

- 7.1 The recommendation in this report is consistent with the City Council’s published policy priority of improving the standards of licensed vehicles, people and premises in the City.

8. Public Sector Equality Duty

8.1 No specific implications have been identified.

ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil