

# Health and safety in sport

Handy guide

# Overview of Health and Safety Law – Handy guide

Health and safety compliance is essential for all businesses. Failure to adhere to the regulatory requirements can result in the imposition of significant financial penalties and potential reputational damage.

The Health and Safety at Work etc Act 1974 ("the 1974 Act") is the primary piece of legislation covering occupational health and safety in Great Britain. It sets out the general duties employers (and the self-employed) have towards employees and the public, and the duties that employees have to themselves and each other. The Occupiers' Liability (Scotland) Act 1960 also imposes liability on an occupier for injury or damage suffered by a person as a consequence of something the occupier did (or omitted to do).

## Who is responsible for athletes' injuries and financial loss?

### Legal duty

When a player suffers financial loss because of an injury, the normal legal test for negligence is applied to decide whether a party is liable. This means asking:

- who owed the player a duty of care;
- whether their actions fell below the accepted standard; and
- whether the harm suffered was reasonably foreseeable.

Applying this test in practice is difficult. A number of different parties could potentially be liable for the damage caused by the injury.

### Participants

Players owe all other participants a duty not to cause them harm. However, this duty is tested against the rules of the game in question and the 'playing culture' of the sport.

In some sports, serious injury can be sustained even when the rules are followed. It may be difficult to prove liability unless there was conduct amounting to a "reckless disregard" for the player's safety.

At the moment it is rare for a player to be able to meet a large damages claim, except at the elite end of well-funded sports. It is therefore often more attractive for an injured person to take action against the employer or sports association (if such a claim based on "vicarious liability" can be advanced) who will be perceived to have the greater financial resources. However there are indications that the landscape is changing, with amateur golfers routinely now carrying insurance.

In the recent English High Court case of *Czernuszka v King*, Dani Czernuszka pursued damages in negligence against Natasha King due to a tackle in an amateur rugby game that resulted in Czernuszka suffering spinal injuries, leaving her paraplegic and wheelchair-dependent. The tackle took place during Czernuszka's first competitive rugby game. This landmark case found Natasha King liable for negligence and shows that potential legal implications can also extend to individual participants in sports.

## Referees

In a 2003 case, the Court held that the referee of an amateur rugby match owed a duty to players to exercise reasonable care when enforcing rules that minimise the risk of injury. The referee allowed an inexperienced player to participate in the front row of the scrum. This breached the rules of the game and was held to be the cause of the accident. In that case, the Welsh Rugby Union had appointed the referee for the match and it was accepted that they were therefore vicariously liable for the player's injury.

## Governing bodies

Governing bodies are responsible for the laws and regulation of a sport. They can have many other functions; however, their potential liability stems from their control over the rules of the sport. In doing so, governing bodies often assume responsibility for determining appropriate procedures and controls to minimise the adverse consequences of injury.

To take an example, in 1991 boxer Michael Watson fought Chris Eubank for the WBO Super-Middleweight title. The referee stopped the fight in the final round when Watson appeared to be unable to defend himself – he had sustained a brain haemorrhage. It was then seven minutes before he was examined by a doctor and nearly half an hour before he made it to hospital. By this time he had serious brain damage that left him paralysed down the left side and with other physical and mental disabilities.

Watson sued the British Boxing Board of Control (BBBC) as the body regulating professional boxing in the UK. It took nearly a decade, but Watson was ultimately successful in his claim.

The court held that the BBBC had assumed responsibility for its members' safety and had breached this duty by failing to inform itself about the risks inherent in a blow to the head, or provide the appropriate level of medical support during and after the fight.

## Health and Safety considerations for sports events organisers

The 1974 Act dictates that the working environment for employees must be safe and without risk to health, so far as is reasonably practicable. An employer is also responsible for ensuring that members of the public are not exposed to health risks.

In the context of sporting events, event hosts and organisers will similarly be under a duty to plan, manage and monitor the event to make sure any person attending is not exposed to risks to their health and safety. This means that it is the host or organiser's responsibility to ensure that there are sufficient protections and procedures in place to mitigate any health and safety risks to staff, participants, and the public who are attending the event.

The obligation to ensure a person's safety 'so far as reasonably practicable' means that the level of risk must be balanced against the measures needed to control risk, taking into account the money, time or trouble involved in mitigating that risk.

### Volunteers

A sports organisation that has employees is required to comply with the 1974 Act.

Where a club is run by volunteers (with no employees), the 1974 Act won't apply, but the club/volunteers will have a legal duty to ensure any premises (for example, a club house, pavilion, playing field, etc) under their control are safe for use by the participants and spectators, so far as reasonably practicable. The extent of the duty imposed by the law will depend on the level of control the club/volunteers have over the premises concerned. They will be expected to keep the premises and any equipment provided in good repair.

### Managing crowds

Due to the obligation to ensure that spectators and the wider public are not exposed to health and safety risks, event organisers must put sufficient crowd control measures in place. This is not a consideration only relevant for the duration of the event – risk assessments must have regard to the lead-up to the event and must remain in place until the spectators have safely left the premises. This would involve matters such as safe entrances and exits, walkways being free from hazards, determining the venue's safe capacity, and having a crowd management plan in place.

## What if I am hiring a location or facility?

If you are hiring a location to play sport or hold an event then you may have some duties to manage risk, as far as reasonably practicable. Again, the extent of these duties will depend on the degree of control that you have over the premises and any equipment on the premises.

However the legal obligation is not exclusively an issue for the club/organisation hiring a location or facility. It is important to remember that the owners of the facility or location must also ensure that the environment is safe for use. The owners cannot simply ignore health and safety considerations (because the event is being run by a third party) – there will be an ongoing duty to ensure that there are sufficient procedures and planning in place, and that the premises and any equipment provided are in good condition.

## How can we help?

As litigation and liability for sporting incidents become more prevalent, the push for greater accountability grows. For governing bodies, navigating the intricacies of legal standards, athlete safety and organisational responsibility is complex but crucial.

If this guide has raised any queries or questions for you, please get in touch with our [Health and Safety team](#) or the wider [Workplace Risk and Regulation team](#), or your usual S+W contact.



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