

Managing the risk of spectators being struck by footballs

Over recent years, we have seen a number of claims for compensation relating to people being hit by footballs at matches.

You might think that being hit by a football whilst watching a football match is an inherent risk that a spectator agrees to when entering the stadium, however, in reality it is not that simple.

The need for a consistent approach

The claims we have seen to date have highlighted that there are varying attitudes towards how this risk should be managed by clubs.

The aim of these guidelines is to help develop a unified approach. This should maximise your chances of a successful defence of any future claims of this nature.

How you can help minimise the risk

There are **six main steps** that need to be undertaken:

1. The identification of potential hazards.
2. Establish who might be harmed and how.
3. Assess the risks.
4. Record your findings.
5. Implement control measures.
6. Regular review of your assessment and revision if necessary.



THE 6 MAIN STEPS

How you can help minimise the risk

There are six main steps that need to be undertaken:



STEP 1

Identifying potential hazards

There is always a risk that during a football match the ball may leave the pitch and cause injury to a spectator or damage to their property.

During match play, players will be focussed on playing the game and may be unaware of the effect their actions will have on spectators. Furthermore, they ultimately may not be able to adapt their actions accordingly (and it's probably unreasonable to expect them to).

A key point is that whilst players may be entitled to have less regard for spectators during the game, the argument that a spectator voluntarily accepts the risk of injury as part of watching the match is weakened considerably outside the match itself. In addition, this argument only applies to players and not to clubs, albeit that different degrees of safety arrangements may be appropriate before, during and after a match.

Historically, it is the warm-up period which has given rise to the majority of the claims at football clubs.

Therefore, when looking at hazards attention needs to be paid not only to gameplay but to the pre-match, half time and post match activities. For instance, during pre-match and half time warm-ups, crowd attention may understandably be reduced e.g. reading the programme, talking, eating drinking or simply moving around the stadium.

As such, it could be argued that a greater duty of care is owed by the club to the spectators when balls are used at these times.

STEP 2

Establishing who might be harmed and how

Consideration should be given to all groups of persons present at the ground, including:

- all spectators
- stewards
- programme sellers
- ball boys
- young and disabled persons with less ability to take evasive actions.

Family enclosures and disabled seating are often located near the pitch for reasons of sight-line and these areas need to be specifically taken into account in the risk assessment.

STEP 3

Assessing the risks

Having identified the risks, we need to understand their extent. Ordinarily being struck by a ball will result in nothing more than bruising and at worst a minor fracture. However, that will not always be the case particularly if a spectator is struck in the head. Additionally, if a spectator has some particular vulnerability the injury may be far more serious. This could well be the case where disabled spectators are situated closer to the pitch than able bodied spectators and, as a general principle, clubs will be expected to take greater care of people who have a known vulnerability.

STEP 4

Record the findings

As with all risk management, clubs must keep a record of all the steps of their risk management process.

The general rule is "if you can't demonstrate you have done it, you haven't done it". Records should be kept in an organised manner in order that they can be provided easily as part of the defence to a claim.

STEP 5

Implementing control measures

The steps taken to control risks should be based upon frequency of occurrence and severity. Many different steps can be taken however and we have identified the following as key considerations:

- **Netting** - erecting netting in specific pre-identified areas, especially during pre match warm-up.
- **Positioning of goals** - consider whether portable goals be positioned for warm-ups in a way to reduce the velocity of balls should they enter the crowd.
- **Signage** - signage could be displayed to remind spectators that they are in a football stadium and there is a risk of balls leaving the field of play at any time.
- **Timing of warm-ups** - shooting practice/ goalkeeper warm-ups could be limited both in their duration and when they take place.
- **Instructions to players** - ensuring players are aware of the risks and that they understand their responsibility to act in a reasonable manner, especially during warm-ups as well as any other specific instructions.

All control measures should be reasonable and reflect the risk of injury. There is no expectation on clubs to erect high fences or glass walls to protect their supporters, and controls should be considered alongside the desire not to impede the view or diminish the matchday experience.

STEP 6

Regularly review and revise

Once the above have been completed all steps should be regularly reviewed to ensure they remain up-to-date and relevant.

Key considerations will be:

- **The circumstances of any related incidents** with a view as to whether they could have been avoided or mitigated.
- **The frequency**, as the reoccurrence of similar incidents where reasonable steps have not been taken to mitigate the risk is detrimental to defending a claim.



Volenti non fit injuria

This is the legal argument that means voluntarily accepting the risk of injury. However, clubs owe a duty of care to spectators and, unlike players, cannot contend that the standard of their duty is any lower during the course of the match than it is at other times.

The key to a successful defence

In addition to the six steps detailed previously, we have identified the following as key to the successful defence of a claim involving a ball striking a spectator at a football match:



Highlighting the risk to the relevant parties and the fact they accept it.

For spectators this should be done at all reasonable stages most specifically at ticket purchase and at strategic points within the stadium. For others e.g. stewards, programme sellers etc. there should be a documented pre-match briefing.



Netting

Although not deemed a necessity during the actual match (and often deemed undesirable), erecting netting to protect areas particularly at risk i.e. behind the goals demonstrates proactive management of the risk and has been particularly useful in the successful defence of some claims in the past.



Advising players

Again more specific to warm-ups, documenting the communication of procedures/best practices as to where on the pitch certain types of warm up i.e. shooting should be carried out in line with where netting is situated, assists in demonstrating active management of the risk.

Most claims involving a spectator being struck by a football are capable of being defended. If the incident occurred during the match then the Volenti argument may apply unless there are specific extenuating circumstances. If the incident occurs at another time, by demonstrating the club has managed the risk appropriately in line with the advice here, there is a good chance of a successful defence.

It is in the interest of all parties involved in the Football League to ensure a precedent of successful claims of this nature is avoided and a uniform approach in management of the risk will go a long way to assisting in this.

Generally claims of this type are likely to be of relatively low value. In practice this probably means that the club will pay the claim in full if it is within the £5,000 third party injury excess (inclusive of legal defence costs) payable by the club.

For further information please do not hesitate to contact us.

Call **0345 872 5060** email **faw@bluefinsport.co.uk** or visit **bluefinsport.co.uk/faw/kick-the-risk**



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