
By: Mike Hill, Cabinet Member, Customer & Communities
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To: Communities Cabinet Committee

Date: 6 July 2012

Subject: **Delegation to Kent and Medway Fire Authority of KCC's duties and responsibilities under the Safety at Sports Grounds Act 1975, the Fire Safety and Safety of Places of Sport Act 1987 and the Safety of Sports Grounds Regulations 1987**

Classification: Unrestricted

Recommendation:

Members of the Cabinet Committee are asked to consider and either endorse or make recommendations on the Cabinet Member decision to delegate to Kent and Medway Fire and Rescue Authority, KCC's duties and responsibilities under the Safety at Sports Grounds Act 1975, the Fire Safety and Safety of Places of Sport Act 1987 and the Safety of Sports Grounds Regulations 1987

1.0 Fire Safety & Safety of Place of Sport Act 1987

- 1.1 Part III of the Fire Safety and Safety of Places of Sport Act 1987 (the 1987 Act) places a responsibility (in County areas in England) upon County Councils to :
- i. Provide safety certificates for covered stands at sports grounds that are designed to house 500 or more spectators in grounds that are not covered by The Safety at Sports Grounds Act 1975 (the 1975 Act) - please see paragraphs 3 to 6 below.
 - ii. Consider applications for certificates and where appropriate issue those certificates, subject to such lawful conditions as they deem to be appropriate.
 - iii. Decide whether or not to issue, amend, replace, transfer or cancel certificates where appropriate and to issue appropriate notices in accordance with the 1987 Act and the Safety of Sports Grounds Regulations 1987.

- iv. Deal with any appeals against any refusal to issue, amend replace or transfer certificates or the content of certificates in relation to (i) and (ii) above.
 - v. Enforce the 1987 Act and to visit/inspect sports grounds as appropriate.
 - vi. Decide what fees should be charged for dealing with the above.
 - vii. Prosecute offences under the 1987 Act.
- 1.2 There are currently 19 stands regulated by the 1987 Act and 16 general safety certificates issued under the 1987 Act in force within KCC's area.

2.0 The Safety at Sports Grounds Act 1975

- 2.1 The Safety at Sports Grounds Act 1975 (the 1975 Act), as amended by the Fire Safety and Safety of Places of Sport Act 1987 and the Safety of Sports Grounds Regulations 1987, enables the Secretary of State to designate sports grounds of such a size which he or she determines (currently those with a capacity for 5,000 or more for football or 10,000 people or greater for other sports) as requiring a Safety Certificate.
- 2.2 The 1975 Act places a responsibility (in County areas in England) upon County Councils to :
- i. Consider applications for certificates and where appropriate issue those certificates, subject to such lawful conditions as they deem to be appropriate.
 - ii. Decide whether or not to issue, amend, replace, transfer or cancel certificates where appropriate and to issue appropriate notices in accordance with the 1975 Act and the 1987 Regulations.
 - iii. Deal with any appeals against any refusal to issue, amend replace or transfer certificates or the content of certificates in relation to 1 and 2 above.
 - iv. Issue prohibition notices under section 10 of the Act and to deal with appeals against prohibition notices.
 - v. Enforce the Act and to visit/inspect sports grounds as appropriate.
 - vi. Decide what fees should be charged for dealing with the above.
 - vii. Prosecute offences under the Act.
- 2.3. Currently there are only 3 designated sports requiring certification – football, cricket and rugby.

- 2.4 Kent, geographically, has one designated sports ground – Gillingham Football Club - and the work here is the responsibility of Medway Council. Therefore, currently, KCC has no duties under the 1975 Act. However, it possible that increases in capacity at other sports grounds within Kent, or changes to the legislation, could bring some sports grounds within KCC's area within the scope of this legislation.

3.0 Current Situation

- 3.1 Prior to the Combination Order, which created Kent and Medway Fire and Rescue Authority ("the Fire Authority") on 1 April 1998, the work under the 1975 and 1987 Acts was done by the Fire Service as part of Kent County Council. Following the creation of the Fire Authority, Kent County Council appears to have devolved its duties, under the above legislation, to the Fire Authority, although no record of that delegation can be found.
- 3.2 Currently the Fire Authority is not undertaking any work pursuant to the 1975 Act within KCC's area, but does undertake work under Part III the 1987 Act, within KCC's area as described in paragraph 2 above. Whilst it is lawful for Kent County Council to delegate the above powers to the Fire Authority, by virtue of the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 and the Kent Fire Services (Combination Scheme) Order 1987, evidence cannot be found that this has ever been done. This of course puts KCC and the Fire Authority at risk of challenge by way of Judicial Review on the basis that the Fire Authority's actions are ultra vires (outside of its powers) and consequently that the certificates already issued are unlawful. The Fire Authority accordingly requires the delegation of these powers since 1 April 1998 to be confirmed to minimise these risks.

4.0 Financial Implications

- 4.1 It would be lawful for the Fire Authority to charge KCC to carry out this work but at the moment the Fire Authority does not intend to do so.
- 4.2 It would be lawful, subject to KCC approving the same, for the Fire Authority to charge those who require safety certificates to pay for them, providing the revenue raised does not exceed the cost of the service provided. At the moment the Fire Authority does not propose to levy any such charges, but may wish to do so in the future. If the Fire Authority does wish to charge in the future it will not do so before it has carried out any necessary consultations and impact assessments or without obtaining the prior approval of KCC.

5.0 Recommendations

- 5.1 The Cabinet Member for Customer & Communities will be asked to take a key decision to regularise the delegation to Kent and Medway Fire and Rescue Authority of KCC's duties and responsibilities under the Safety at Sports Grounds Act 1975, the Fire Safety and Safety of Places of Sport Act 1987 and the Safety of Sports Grounds Regulations 1987.

- 5.2 Members of the Communities Cabinet Committee are asked to consider and either endorse or make recommendations on the decision to be taken by the Cabinet Member for Customer & Communities.

Background Documents : None

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