

The recent decision of the Court of Appeal in *Leeds United v Chief Constable of West Yorkshire Police* [2013] EWCA Civ 115 is likely to have important consequences for many football clubs on the cost of police services on match days.

In what is the first case to consider the policing of public land surrounding football stadia, the Court of Appeal found that, contrary to the traditional approach taken by local constabularies, the cost of policing the “extended footprint” of a football stadium is a public duty for which clubs should not necessarily be responsible.

Leeds United is the latest in a line of cases involving football clubs and local police forces, from *Harris v Sheffield United Football Club Ltd* [1987] 2 All ER 838 (concerning the cost of policing the stadium itself) to *Wigan Athletic v Greater Manchester Police* [2008] EWCA Civ 1449 (concerning what constitutes a “request” by a club for special police services).

The decision is likely to be of significant interest to clubs seeking to negotiate the terms of their arrangements with local police forces before the 2013–14 season.

Background

Leeds United concerned a dispute as to who should bear the responsibility for the cost of policing the areas surrounding Elland Road stadium before and after matches and whether such policing amounted to special police services (SPS). Under Section 25(1) of the Police Act 1996, a person may request SPS in consideration for the payment of charges to the police. Thus, whilst policing is a public service in respect of which individual citizens pay taxes, the Police Act allows the police to provide what is effectively a private service in return for the payment of a fee.

The extent to which the policing of football matches constitutes a public duty or a private service has long been debated. Whilst it is settled in law, since *Harris*, that policing inside a privately-owned football stadium is a special service for which clubs should bear the costs, outside the ground the distinction between public and private policing is not as easy to determine. For example, where football grounds are near city centres, train stations or residential housing (which is the case for the majority of clubs in England and Wales), the question which often arises is, who should bear the cost of policing those areas on match days? On any normal day, policing would not be necessary in such areas and it is beyond doubt that the attendance of so many fans is to the ultimate benefit of the clubs. Yet they remain public areas. They are not owned or controlled by clubs and to the extent that police services are required on them to protect members of the public, are those services not within the police’s general public duty?

These were precisely the types of issues before the Court in *Leeds United*. Here, the club had requested police services: (i) within Elland Road; (ii) in the areas immediately outside the stadium that are owned or controlled by the club; and (iii) in residential streets and public areas such as car parks and open spaces beyond the stadium and the areas owned or controlled by the club. Leeds United accepted that the police services provided in (i) and (ii) were SPS within the meaning of the Police Act, but it disputed liability for the cost of policing the extended footprint of the ground in (iii).

At first instance, Eady J held that the services provided in the extended footprint were within the police’s ordinary public duty and could not be charged to the club. West Yorkshire Police (WYP) appealed to the Court of Appeal, arguing (*inter alia*) that: (i) the assessment of what amounts to SPS should not be determined on whether the police services are provided on public or private land; and (ii) an important factor in any such assessment is whether the services are provided primarily for the benefit of the public, or for those people attending the football match.

The Decision

The Court of Appeal rejected WYP’s appeal. In doing so, it made the following findings that will be of interest to clubs:

- The provision of police services at matches on private land and at the request of a football club will usually amount to SPS within the meaning of the Police Act, except where the police are summoned to deal with actual or imminent violence.
- The provision of police services at matches on public land will usually be different. The police’s duty on such land is to maintain law and order and protect life and property in a public place. It should not matter that the majority of those who are offered such protection on match days are football fans. Those fans remain members of the public and are entitled to police protection accordingly.
- Whilst it may be relevant to consider for whose benefit the police services are ultimately provided when determining whether the services amount to SPS, this factor is not determinative. At a football match, the maintenance of public order and the protection of life and property are services which benefit not only the club and its supporters, but also the community generally. As such, there is no relevant distinction between, for example, policing at Leeds train station approximately two miles from the stadium (which WYP accepted was not SPS) and policing within the extended footprint of the stadium.

Relevance to Clubs

The decision in *Leeds United* will be welcome news for clubs looking to save money on match day expenses. In many cases it should have the effect of limiting the cost of police services to those areas of land owned or controlled by clubs.

Given this, clubs that are (or will soon be) in the process of discussing police costs for the 2013–14 season with their local constabulary and/or local authority, should consider limiting the scope of their request for special police services accordingly. However, clubs in any doubt as to the circumstances in which police costs are charged in their case should seek specialist advice.

Squire Sanders Sports Law Team

The sports law team at Squire Sanders has significant experience in advising football clubs and stakeholders in the sport and entertainment sectors on a wide range of commercial issues including in relation to the cost of police services. To discuss the issues raised in the above or on any other issue, please contact Peter Limbert or Stephen Sampson using the details opposite.



Peter Limbert

Senior Associate, Sports Law Group
T +44 207 655 0262
E peter.limbert@squiresanders.com



Stephen Sampson

Partner, Head of Sports Law Group
T +44 207 655 1481
E stephen.sampson@squiresanders.com

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

© Squire Sanders.