

Hammersmith & Fulham Council  
The Environment Department  
Food and Safety Team

**Only by email to:** [foodandsafety@lbhf.gov.uk](mailto:foodandsafety@lbhf.gov.uk)

12 October 2022

& to Interim Chief Executive Sharon Lea  
[chief.executive@lbhf.gov.uk](mailto:chief.executive@lbhf.gov.uk)

Our ref: LFP/41873

**EXTREMELY URGENT LETTER BEFORE ACTION**

**CHELSEA FC V MANCHESTER UNITED FC MATCH ON 22 OCTOBER 2022**

Dear Sir / Madam

**Proposed proceedings between the Manchester United Supporters Trust and the London Borough of Hammersmith and Fulham**

1. We are instructed by the Manchester United Supporters Trust ('the Trust') in relation to the decision of the London Borough of Hammersmith and Fulham ('the Council') on 7 October 2022 to issue a Safety Certificate for a football match between Chelsea FC and Manchester United FC ('MUFC') on 22 October with the condition of a reduced ticket allocation for MUFC supporters. We write to request you urgently issue a fresh Safety Certificate for the above fixture with allowance for the full ticket allocation of 3000 MUFC fans.
2. Please treat this letter as a pre-action letter sent in accordance with the Pre-Action Protocol. You are reminded of your obligations under the Protocol and, given the urgency of the matters raised, we request that you respond to this letter within **48 hours of receipt**. Therefore, please provide your response by email to Lochlinn Parker ([lparker@itnsolicitors.com](mailto:lparker@itnsolicitors.com)) by **12.00 noon on Friday 14 October 2022**.
3. If we do not receive a reply to this letter from you by the above deadline for response, or if you confirm that you refuse to reverse your decision, then we reserve the right to

commence judicial review proceedings against you without further notice. If we are to commence judicial review proceedings, then we will apply for an emergency hearing in the High Court in London and rely on this letter (and any response from you) as the papers to be considered by the allocated judge. In any reply, please confirm the details of the Counsel you intend to instruct.

4. In brief, the decision is challenged on the basis that there is no rational reason to reduce the ticket allocation for away fans at a 5.30pm kick off when it is accepted that there would be a full ticket allocation at a fixture beginning no later than 4.45pm. In the alternative, the Defendant has fettered their discretion to issue a safety certificate with the full ticket allocation by uncritically accepting the advice of the Metropolitan Police Service.

**A. The proposed Claimant**

5. Should the commencement of proceedings become necessary, the proposed Claimant is **I-MUST Ltd**, otherwise known as the Manchester United Supporters Trust, and referred to as the 'Trust' in this letter. All correspondence for the Claimant should be directed to Lochlinn Parker at this office:

ITN Solicitors  
19 - 21 Great Tower Street  
Tower Hill  
London, EC3R 5AQ  
[lparker@itnsolicitors.com](mailto:lparker@itnsolicitors.com)  
020 3909 8100

6. For completeness, we **enclose** a copy of the authority form signed by the Trust's CEO, Duncan Drasdo, authorising the disclosure of any relevant information or documentation requested in this letter of claim.
7. The proposed Claimant has sufficient interest<sup>1</sup> in this matter, and therefore the necessary standing to bring proceedings, as they are the main representative organisation of MUFC supporters. The Trust was founded in 1998 and were originally known as Shareholders United, as they had become shareholders in the club. After a takeover of the club in 2005 they lost their shareholding and became the Trust. The Trust is a supporters organisation,

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<sup>1</sup> R v Inland Revenue Commissioners ("IRC"), ex parte (1) National Federation of Self-Employed and (2) Small Businesses Ltd [1982] AC 617

affiliated to the national Football Supporters Association. The Trust is a registered society under the Co-operative and Community Benefit Societies Act 2014. The Trust has 6000 fee paying members who have voting rights, and 140,000 'Lite' members who do not pay fees and do not have voting rights. In addition, the Trust regularly consults with the wider MUFC supporter base, beyond their own membership. Increasingly, the Trust seeks to connect with the international supporters base and aims to develop a collective, united supporters' voice and community to build a foundation and platform to once again own shares in the club. The club regularly consults directly with the Trust on decisions that will affect fans, and the Trust has two seats on the club established Fans' Advisory Board and the Fans' Forum. The Trust is therefore well placed to be a representative body for fans affected by the Defendant's decision.

**B. Proposed Defendant**

8. Should the commencement of proceedings become necessary, the proposed Defendant in this matter is **the London Borough of Hammersmith and Fulham**.

**C. The Claimant's legal advisers and address for reply**

9. This case is being conducted by Lochlinn Parker, who can be contacted at the address set out above and at [lparker@itnsolicitors.com](mailto:lparker@itnsolicitors.com). We confirm that we will accept service of proceedings at the above email. If the electronic service of any item exceeds 20MB then please contact Mr Parker to arrange another method of document transfer. The reference number for this case is LFP/41873.

**D. Events giving rise to the claim**

10. It is understood that the timing of this fixture was initially unconfirmed due to the continued consideration by the television companies holding the rights to broadcast Premier League matches of whether and what time the match would be broadcast. Prior to 25 August it was decided that the match would be held on the afternoon of Sunday 23 October. However, on 30 August, the result of the Champions League draw and the subsequent match commitments led Chelsea FC to seek to move the fixture to Saturday 22 October. Television companies subsequently decided that they wished to broadcast the match at 5.30pm on 22 October.

11. In response to this position, we understand that the Metropolitan Police Service initially indicated that they would not provide a Special Police Service for this fixture at all, relying on a purported agreement with all London based Premier League football clubs that fixtures designated as High Risk (Category C) should not kick off later than 4.45pm.
12. The MPS reached the conclusion that this fixture would be a High Risk (Category C) match by assessing the risk according to a scoring system (the 'matrix risk assessment'). It is unclear what the matrix risk assessment is based upon.
13. The MPS later changed its position to agree to a Special Police Service arrangement if there was reduction by half (to 1,500) of the away fan ticket allocation. Subsequently, the MPS proposal was later increased to an allocation of 2,000 after objections were raised by Chelsea FC.
14. We understand that the MPS indicated that if the fixture began no later than 4.45pm then they would consider it to be in Category B, therefore indicating there would be a *medium* risk of disorder.
15. An emergency Safety Advisory Group ('SAG') meeting was requested by MUFC and held on 7 October 2022. We understand that MUFC challenged the failure to consider the extensive risk mitigation that was offered by the club as part of the risk assessment process. It is understood that the MPS indicated that any mitigation of this kind could not form part of their risk matrix criteria. The mitigation offered included: ticket collection from a designated location; no alcohol in the ground; increased MUFC stewards; early and soft ID checks in advance of the turnstiles; and the option of holding back supporters at the end of the game in order to reduce the chance of home and away fans meeting post the match.
16. We also understand that MUFC raised concerns regarding the increase in risk of a reduction in the ticket allocation as the tickets had already been sold. Factors raised included: ticketless fans travelling to the stadium and surrounding areas to attempt to gain access; the potential of away fans obtaining tickets in the home end; and an increased potential of anti-social behaviour by MUFC supporters who felt aggrieved by the allocation reduction.
17. During the SAG meeting, we understand that the MPS completed another risk assessment (though without consideration of the mitigation offered) and the scoring system produced a slightly higher allocation of 2,370. The SAG then decided that it could only advise that a

safety certificate should be issued if the allocation was reduced to 2,370. That is then what transpired.

18. The history of this fixture suggests that it is not viewed by the police as a high-risk match *per se*. There is also no data from before the pandemic affected seasons (2019/2020 & 2020/2021) that would suggest that disorder is likely consequence of a full ticket allocation of MUFC fans.

Date	KO	Comp	Risk	Allocation	Attended	MUFC Arrests	MUFC Ejections
18/12/19 Wednesday	19.30	FA Cup	C	5945	5794	1	10
20/10/18 Saturday	12.30	PL	B	3075	2945	2	8
5/11/17 Sunday	16.30	PL	B	3048	3000	2	4
13/3/17 Monday	19.45	FA Cup	C	5713	5547	6	7
23/10/16 Sunday	16.00	PL	B	2858	2799	0	7
7/2/16 Sunday	16.00	PL	B	2884	2665	3	14

19. The only factor that has apparently changed the view of the police is that the kick off is to be 45 minutes later than the 4.45pm cut off.

## E. The legal principles

### The Safety of Sports Grounds Act 1975

20. The Council has a statutory duty under the Safety of Sports Grounds Act 1975 ('SSGA') (as amended) to issue a General Safety Certificate (s.1(3)(a) SSGA) in respect of Stamford Bridge Stadium, Fulham Road, London SW6 1HS (Chelsea FC's stadium), containing such terms and conditions as it considers necessary or expedient to secure the reasonable safety of spectators admitted to the Stadium. This is because Stamford Bridge is a designated sports ground (s.1(1) SSGA). The Council can also issue a Special Safety certificate under s.1(3)(b) SSGA, which relates to a specific event or events. The Council can also issue a prohibition notice restricting access to part of the ground or limiting the numbers there in if it considers it necessary for the safety of spectators (s.10 SSGA).
21. The Council has delegated all functions in relation to the SSGA to the Assistant Director for Regulatory Services and the Head of Environmental Health (Commercial). To assist the Defendant in carrying out its statutory function a Safety Advisory Group (SAG) has been established to provide specialist advice to the Defendant, not the Stadium

management. The SAG is made up of authorised representatives including from the Council, the MPS, the London Fire and Emergency Planning authority, the London Ambulance Service, Chelsea FC, and the Sports Ground Safety Authority.

22. The Council has published a policy on the SAG, "*Terms of Reference: Safety Advisory Group for Chelsea Football Club*" (the 'Terms of Reference'). The Terms of Reference provide for the following roles for the MPS at a SAG meeting such as that which occurred in this case:

5.3.1 *Advise the SAG on issues of compatibility and compliance of the Club's event safety and security plan and contingency plans with the Department for Culture Media and Sport - Guide to Safety at Sports Grounds ("The Green Guide"), and the Emergency Services Liaison Panel (LESP) Major Incident Procedure Manual.*

5.3.2 *Advise of the Police classification (in line with National guidelines), for forthcoming football fixtures based on current intelligence and agree with the Club the Police resourcing levels for each individual match.*

5.3.3 *Advise in relation to possible public disorder issues inside or in the immediate vicinity of the Stadium on football match days and other Stadium uses, where they may impact upon the reasonable safety of all persons present at the Stadium.*

23. The role of the SAG is to consider such advice and then to make recommendations (Terms of Reference, §1.4). The ultimate decision as to whether to issue a safety certificate is for the Council. A safety certificate shall contain such terms and conditions as the Council considers necessary or expedient to secure reasonable safety at the sports ground when it is in use for the specified activity or activities, and the terms and conditions may be such as to involve alterations or additions to the sports ground (s.2(1) SSGA).

24. No condition of a safety certificate shall require the provision of the services at the ground of any members of a police force unless the extent of the provision of their services is reserved for the determination of the chief officer of police of the force (s.2(2A) SSGA).

## Guidance for police forces on policing football matches

25. The College of Policing Football guidance for policing operations is based on, and has updated, the ACPO 2010 Football guidelines. There is no available guidance on the MPS's matrix risk assessment tool.
26. The College of Policing Football guidance and the ACPO guidance can be found here.  
<https://www.college.police.uk/app/public-order/policing-football>  
<https://www.npcc.police.uk/documents/uniformed/2010/201008UNGPF01.pdf>

## **F. The grounds**

### Irrationality

27. A public law decision-maker must take into account all relevant considerations. In this case, the Council decided to issue a Special Safety Certificate with a reduced ticket allocation simply because this was the suggested level of tickets permitted by the MPS risk assessment matrix. This decision was irrational, in that:
  - 27.1 The risk assessment matrix, itself, did not take into account risk reduction mitigations (including those suggested by MUFC).
  - 27.2 The Council therefore did not, itself, take into account the risk reduction mitigations offered by MUFC.
  - 27.3 The Council did not consider the potential aggravation to any risk posed by excluding MUFC fans who had already bought tickets (as suggested by MUFC during the SAG).
28. Further, or in the alternative, the decision was irrational given that:
  - 28.1 There is no history of significant disorder at previous matches between Chelsea FC and MUFC. These matches include matches which have kicked off later than 4.45pm.
  - 28.2 The MPS agreement with London clubs that "*high risk*" matches cannot take place later than 4.45pm is, itself, arbitrary and unjustified. There is no significant

difference (in terms of policing risk) between a match which kicks off at 4.45pm and a match which kicks off at 5.30pm.

### Fettering of discretion

29. The Council seems to have relied entirely on the risk assessment of the MPS in deciding on the appropriate condition to place on the Special Safety Certificate in respect of ticket allocation for away fans. The Council has its own health and safety experts and, in light of the significant mitigation offered by MUFC and the rigid application of factors by the MPS matrix risk assessment tool, it should have therefore reached its own assessment as to the appropriate risk assessment.
30. It is accepted that the Council cannot prescribe the police resources to be provided to manage public order and public safety (s.2A SSGA). However, this is not the same as agreeing, without independent assessment, to the police risk assessment. To do so is to fetter its own discretion in issuing safety certificates. The role of the MPS is to provide advice on, but not to decide, the level of risk posed by the match.

### Procedural Fairness

31. Common law procedural fairness requires that a person who may be adversely affected by a decision should have an opportunity to make representations on his own behalf before a decision is taken, with a view to producing a favourable result: *R v Secretary of State for the Home Department, ex p Doody* [1994] 1 AC 531, 560D-G. As Lord Wilson explained in *R (Moseley) v Haringey LBC* [2014] 1 WLR 3947, “*the demands of fairness are likely to be somewhat higher when an authority contemplates depriving someone of an existing benefit or advantage than when the claimant is a bare applicant for a future benefit.*”
32. In this case, the Council has deprived MUFC supporters of the ability to attend the Chelsea FC match. MUFC supporters had already bought tickets, made travel plans, and invested considerable resources in attending the match. By reason of the Council’s decision, they cannot now attend.
33. It was unfair for the Council to take this decision without hearing from any MUFC supporter (or from the Trust, as a representative of the supporters). While the SAG Terms of Reference encourage supporter involvement, there was no way for any MUFC supporter to input into the Council’s decision-making at the special SAG meeting that was convened.

34. The decision was doubly unfair, as it was taken based on the MPS' risk assessment matrix, which is itself not based on any publicly accessible criteria. Thus, even if any MUFC supporter had been invited to attend the SAG meeting, its ability to make informed representations was limited in view of the reliance on an unpublished risk assessment tool.

**G. The details of the action that the Defendant is expected to take**

35. The Council is respectfully invited to reverse its decision to issue a safety certificate for the fixture with a reduced ticket allocation for away fans, and to issue a new safety certificate with the full ticket allocation for away fans of 3,000 tickets.

**H. Documentation requested**

36. To allow us to complete our investigations, and in accordance with the pre-action protocol for judicial review and your ongoing duty of candour, we request that you provide us with any documentation which is relevant to our client's claim. We consider that this relevant documentation should include, but not be limited to, the following:

36.1 The minutes of the emergency SAG meeting on 7 October 2022 that considered the safety Certificate for this fixture;

36.2 All documents provided to the SAG meeting for their consideration, including:

36.2.1 any report from the MPS concerning the risk assessment for this fixture;

36.2.2 any documents confirming mitigations or conditions proposed by the Clubs;

36.3 The documents confirming the recommendation provided by the SAG to the Defendant.

36.4 The Council's written reasons for the decision.

**I. Interested Parties**

37. We consider that the Commissioner of Police of the Metropolis is properly considered to be an Interested Party in this case as there is a resource implication for any change to the decision under challenge. We will send a copy of this letter to Commissioner c/o [dls-](#)

[allocationsteam@met.police.uk](mailto:allocationsteam@met.police.uk). We will confirm the caseworker at the DLS as soon as it is known.

38. Although, both Clubs are directly affected by this challenge, we do not consider that they could be considered properly interested parties at this time as the public statement of MUFC (found [here](#)) indicates that both clubs would not oppose action which resulted in an increased allocation of tickets to away fans,. In any event, we have sent a copy of this letter to both clubs for their information and will inform you if either club seeks to take part in this case.
39. Should you disagree or consider that there are other organisations who could properly be considered to be Interested Persons, then you are respectfully invited to particularise any proposed interested parties and provide reasons as to why they have a direct interest in this proposed claim.

**J. ADR/ Mediation**

40. The Trust is willing to engage in any legitimate and realistic attempt to solve this matter, however, it is considered that the urgency of this matter means that there is insufficient time for a formal ADR or mediation process. Should you consider that ADR or mediation is appropriate, then please revert with your proposals.

**K. Date for reply**

41. The pre-action protocol for judicial review normally requires that proposed Defendants be allowed 14 days to respond, however this case is extremely urgent in light of the date of the fixture. Therefore, we request that you provide us with a letter of reply by **12.00 noon on 14 October 2022**, failing which we reserve the right to commence judicial review proceedings against you without further notice.
42. In its reply, we respectfully invite the Council to confirm its agreement to this claim for judicial review being litigated on an expedited basis. We suggest that a rolled-up hearing early next week will be appropriate.

We look forward to hearing from you.

Yours faithfully

A handwritten signature in black ink, appearing to read 'I. Natas', is positioned below the text 'Yours faithfully'.

**Irvine Thanvi Natas Solicitors**

*CC: The Commissioner of Police of the Metropolis, Manchester United FC and Chelsea FC*