

[Meta data

The introduction of rail seating, common in Germany, into British Football stadia is a hot topic. Celtic FC is in dispute with Glasgow City Council over their installation in Parkhead, whilst the Liberal Democrats have announced that the introduction of safe standing into English Football is a campaign pledge for the 2015 General election. Marcus Keppel-Palmer looks at rail seating in the context of the Taylor Report and the legislation (both explained below) that introduced all-seated stadia into English Football]

[STAND UP FOR SEATING: A RE-CONSIDERATION OF ALL-SEATED STADIA IN ENGLISH FOOTBALL]

In response to the Hillsborough disaster, English Law developed a requirement for all-seated accommodation in football stadia. Nowadays, gone are the big terraces, a mass of humanity chanting and swaying together typified by the Kop, the Holte End and others. Memories of these now seem to be sepia tinged. And yet there has not been eradication in the psyche of the football fan of the primal desire to stand up to watch, particularly when the action is nearby, goalmouth located or just of the type to engage the emotions. One had only to see the reaction of the Leicester City fans to scoring in their first game back in the Premier League, standing together, jumping up and down in joy, their backs to the pitch.

At the time of writing, the renewed inquest into the events at Hillsborough is taking place in Warrington, trying finally to get to the facts in what was and remains a tragedy that defined how football fans in England and Wales and indeed further afield view the “beautiful game”. This article is not an examination of the tragedy, although it does look at the recommendations made in the Taylor Report (below) and lessons learned from the tragic events of that day.

A movement to reintroduce standing in England and Wales

There is [a movement now to reintroduce standing](#) into grounds.ⁱ “Rail seating” (see the title picture above – left side – by way of example ⁱⁱ) that can be locked into an upright position such that the space it occupied can then be used as “safe standing” area (see title picture above – right side) is already in place in a number of Bundesliga grounds and elsewhere in Europe.ⁱⁱⁱ Attempts are now being made to introduce rail seating into stadia in England and Wales. In 2010, [a private members Bill](#) to introduce safe standing was presented to Parliament, but the Bill ran out of Parliamentary time^{iv}. Celtic FC has endeavoured to introduce rail seating into Parkhead, although at present the Safety Advisory Group on Glasgow City Council [has not given permission](#) for the club to go ahead.^v The Liberal Democrats have announced that an introduction of safe standing at stadia will be [a pledge in their manifesto](#) for the 2015 General Election.^{vi}

Case study: Ashton Gate Stadium

For a Senior Lecturer at the University of the West of England, Bristol City F.C. is one of the local league clubs and Bristol Rugby is one of the local professional rugby clubs. [Ashton Gate Stadium](#)^{vii}

has been the home of Bristol City for some 100 years and more, but as of the new season it has become home to Bristol Rugby as well. The latter have been playing at the Memorial Stadium (the 'Mem'), which they share with Bristol Rovers F.C. That ground has a capacity of around 12,000, including standing accommodation for some 10,000 spectators. Proposals to relocate Bristol Rovers to a new stadium, together with a change of ownership, have meant Bristol Rugby seeking a new 'home' for this season.

Thereby lies the rub. Ashton Gate is an all-seated stadium, designated as such under the [Football Spectators \(Seating\) Order 1994](#)^{viii} when Bristol City was a team in the top two tiers of English football. Bristol Rovers, on the other hand, have not been in the top two tiers of English football since relegation in the 1992/93 season, and only moved to the Mem in 1996^x. Accordingly, it has never been a stadium designated under the [Football Spectators Act 1989](#) as one requiring an all-seated status.

In order to provide Bristol Rugby's supporters with the continued opportunity to stand in appropriately configured areas of Ashton Gate, the intention is to redevelop two areas of the ground and fit them with rail seats. These will provide the rugby fans who wish to stand with a robust waist-high rail along every individual row, which will clearly be safer than standing behind a conventional low-backed seat or even, it could be argued, than standing on the relatively open terracing that they have been used to up till now at the Mem.

The key questions

1. Would the installation of rail seating at football stadia comply with current legislation?
2. If installed, could rail seating be locked-up and used as safe standing area and comply with current legislation?
3. Are there grounds for arguing for a reintroduction of standing at top-flight football in England and Wales?

In this article, we will examine the Taylor Report that led to the introduction of all-seated stadia (and look at the purposes behind the report); the existing legislation; and we will consider whether or not rail seating could be installed in top tier English football stadia.

The Taylor Report

[The Taylor Report](#)^x was prepared following the events that occurred at Hillsborough during the semi-final of the FA Cup 1989, events so well known that they do not need to be revisited. In his final Report, Taylor LJ set out comprehensively the failings of football in the late 1980s^{xi}: hooliganism, uncovered standing; segregation; cost of policing; old dilapidated grounds; litter; poor refreshments; lack of pre-match entertainment; complacency and lack of leadership. As the following quote illustrates, the primary evidence to the Taylor Inquiry linked crowd behaviour with inadequate ground facilities:

"The picture revealed is of a general malaise or blight over the game due to a number of factors. Principally these are: old grounds, poor facilities, hooliganism, excessive drinking and poor leadership. Crowd safety and crowd behaviour with which I am concerned are closely related to the

quality of the accommodation and facilities offered and to the standards which are encouraged and enforced. So I think it necessary to consider all these aspects.”^{xii}

The reasons for recommending all seated stadia

Taylor LJ and his two assessors visited 31 grounds before compiling the Report (including 7 that were not used for football) and noted that 58 grounds then in current use dated back to construction around the start of the 20th Century. It was in that context that Taylor LJ recommended all-seated stadia. However, the recommendation was not in itself primarily focussed on safety, but rather offered as a solution to the prevailing low level facilities at all football stadia, as illustrated by the following quote:

“Football spectators are invited by the clubs for entertainment and enjoyment. Often, however, the facilities provided for them have been lamentable. Apart from the discomfort of standing on a terrace exposed to the elements, the ordinary provisions to be expected at a place of entertainment are sometimes not merely basic but squalid. At some grounds the lavatories are primitive in design, poorly maintained and inadequate in number. This not only denies the spectator an essential facility he is entitled to expect. It directly lowers standards of conduct.”^{xiii}

A focus on modernisation and safety

Taylor LJ was of the opinion that a requirement for all-seated stadia would force a change of attitude among those running the game to ensure that spectator safety and overcrowding would be put front and centre. Spectator behaviour would improve, he theorised, if spectator comfort was increased. And spectator comfort would increase if grounds were modernised. And grounds would only be modernised if clubs would be forced to modernise them by implementing a requirement for all-seated accommodation. Eliminating terracing and replacing them with seats was the strategy.

But Taylor LJ stated in the Report that all-seated stadia were not in itself the only answer, it was the answer that was most appropriate at the time of the Report, given the atmosphere and culture then prevailing in football.

“There is no panacea which will achieve total safety and cure all problems of behaviour and crowd control. But I am satisfied that seating does more to achieve those objectives than any other single measure.”^{xiv}

The reasons for this, posited Taylor LJ, were:

- a) Each spectator has “*his own small piece of territory in which he can feel reasonably secure*”^{xv}, in which the spectator would not be jostled.
- b) Each spectator would not be “*subject to pressure of numbers behind or around him during the match*”^{xvi}
- c) Each spectator would not be “*painfully bent double over a crush barrier.*”^{xvii}

Taylor LJ also concluded that seating had distinct advantages in terms of crowd control, with CCTV able to pinpoint seats and thus police could identify who troublemakers were^{xviii}. Crowd density problems would be controlled by each spectator having a seat, and the eradication of terraces would

effectively eliminate” involuntary and uncontrolled crowd movements occasioned by incidents in the game”^{xxix}.

Standing of itself not outlawed

However, the Taylor Report tacitly acknowledged that standing was not to be outlawed of itself:

*“It is true that at moments of excitement seated spectators do, **and may be expected to, rise from their seats.**”*^{xx} (Emphasis added).

At the time and in the social, cultural and architectural conditions then prevailing, all-seated stadia were the most viable solution.

The current legislation in England and Wales

Mandatory requirement for all-seated stadia

In 2000, Ferris J summarised the position of the law relating to the mandatory requirement for seating in top flight football stadia following the Taylor Report in his judgment in *Re Televising Premier League Football Matches*^{xxi} thus:

“Amongst many other recommendations Taylor L.J. proposed that steps should be taken to ensure that spectators were admitted only to stadia having seated accommodation, not the traditional unseated terracing. He proposed that this recommendation should be implemented at certain high risk matches from the start of the 1993–94 season; that it should apply at grounds in the first and second divisions of the Football League (i.e. what became the Premier League and the first division of the Football League) by the start of the 1994–95 season; and that it should be extended to matches at other grounds over a slightly longer period, the change being completed at all relevant grounds by the beginning of the 1999–2000 season. This recommendation was accepted by the Government and by the governing bodies of football.”

Under section 11(1) of the [Football Spectators Act 1989](#), the Secretary of State has the power to make orders in relation to the licensing of admission of spectators to football stadia inter alia *“a condition imposing requirements as respects the seating of spectators at designated football matches at the premises”*.^{xxii} This power was then used to implement the recommendations of the Taylor Report, under the formation of the Football Licensing Authority, now the [Sports Grounds Safety Authority](#).^{xxiii} Orders, such as the Football Spectators (Seating) Order 1994^{xxiv}, have been made and as a consequence 71 football stadia are currently all-seated.

Under the Football Spectators (Seating Order) 1994, which applies to Ashton Gate, schedule 2 provides:

“Requirements to be imposed

- 1. Only seated accommodation shall be provided for spectators at a designated football match.*
- 2. Spectators shall only be admitted to watch a designated football match from seated accommodation.”*^{xxv}

It should be noted that each year, new Orders in the same terms apply to each football stadium in circumstances where the club playing there is promoted to the top two tiers of English Football, effectively now when a club gets promoted for the first time to the Championship.

The term “*designated football matches*” means a match designated by the Secretary of State as such and under the currently in force [Order](#) now means:

“any association football match which is played at Wembley Stadium, at the Millennium Stadium in Cardiff or at a sports ground in England and Wales which is registered with the Football League or the Football Association Premier League as the home ground of a club which is a member of the Football League or the Football Association Premier League at the time the match is played.”^{xxvi}

There is a slightly different definition for matches designated as such for the purposes of the [Football \(Offences\) Act 1991](#)^{xxvii}. It should be noted that this requirement does not apply for other spectator sports played in stadia such as Rugby, Rugby League and Cricket.

What is seated accommodation?

There is no definition in the legislation as to what seated accommodation means. The [Guide to Safety at Sports Grounds](#) (“The Green Guide”)^{xxviii} is the official guidance provided on spectator safety in football stadia. The first version was produced in 1973 following the Wheatley Inquiry^{xxix} of 1972. The Guide has grown from offering guidance on spectator safety to becoming a wide-ranging set of official guidance on all aspects of football stadia. The Department of Culture, Media and Sport in 2008 commissioned the current version, the 5th edition.

The Green Guide merely recommends that seated accommodation be available for non-ambulatory spectators watching sports. It offers no definition of seated accommodation. In terms of dimensions, the guide^{xxx} recommends seat width to be 460mm and the seat depth to be 700mm (albeit on new designs the recommendation is 800mm) with appropriate clearways for access to and from the seats.^{xxxi} When discussing the clearways, the guide considers the use of tip-up seats.

There is no requirement specifically in the legislation that spectators should remain seated in all-seated stadia. There is tacit recognition in the Green Guide that spectators will stand in seated areas:

“Persistent standing by spectators in seated areas raises significant safety, crowd management and customer care issues which are usually interrelated. Where these are likely to arise, the ground management should prepare a comprehensive risk assessment and plans for resolving them.”^{xxxii}

What is rail seating?

Rail seating involves the same sort of tip-up seats that are seen up and down the country in football stadia. The title photographs above show the rail seating installed at Ashton Gate for demonstration purposes.^{xxxiii} Rail seating, unlike other seats, can be locked into an upright position, thus permitting standing unaffected by the seat itself coming down. In front and behind each rail seat is positioned a barrier, at around waist height^{xxxiv}, so that no person behind the rail seat can tip over into the space occupied by the spectator in front. Sightlines remain at the same rake as the stand would offer for seating. With each rail seat being individually numbered, tickets could be sold to an individual space

that can be used for a spectator to stand in if the seat is locked up, or for seating if the seat is unlocked and able to be put down.

The presence of the barriers/rails makes it impossible to fall accidentally forward onto a spectator in front when leaning forward, unlike existing seating which has a seat back at best, which is at ankle or shin height, or often may only be a bucket seat with no seat back, over which an excited spectator may fall.

Does rail seating comply with the law?

As rail seating consists of tip-up seats, supporters of rail seating would argue that it must fall within the common understanding of what constitutes “seated accommodation”. There is no difference between rail seating and other tip-up seats currently installed in most stadia in that respect.

Various concerns have been raised in the Green Guide about persistent standing and in the report [*Standing In Seated Areas At Football Grounds \(2013\)*](#)^{xxxv}. The concerns outlined in the report about persistent standing are primarily on grounds of safety of spectators and also crowd management. The safety issues concern such matters as lack of a crush barrier, risk of fall and cascading down on to other spectators, greater space occupation by standing spectators. The crowd management concerns include ease of monitoring seated spectators with an allocated seat, and a more compliant and docile attitude from seated spectators. These issues will be considered in greater detail in a subsequent article.

Rail seating is arguably a better response to these issues than current seating as the barrier prevents spectators falling forward over seats. The waist high level barrier enables spectators to hold on to something when edging past other spectators, maintaining a better balance and centre of gravity. Supporters of rail seating see no reason why Bristol City and other clubs should not now be able to install rail seating

The nub of the issue, of course, is whether a club can, once they have installed rail seating, use the rail seating as standing i.e. with the seat locked in the upright position? Supporters of rail seating are currently lobbying for this to be the case on grounds that the rail seating complies with the purpose of the Taylor Report as originally drafted. The Sports Ground Safety Authority and others would argue that the purpose of the Report, as evidenced by current legislation, is to maintain spectators in seated accommodation as that is safe, enables safe crowd management and puts spectators first.

The private members Bill introduced in 2010 and the manifesto promise by the Liberal Democrats for the 2015 election would suggest that supporters believe a change in the law is necessary. However, there may be grounds for considering that safe standing *may* technically comply with current legislation.

Can we return to standing?

Advocates of standing are not advocates of a return to the days of uncontrolled open terracing. For football, advocates refer to an enhanced atmosphere that standing brings^{xxxvi}. Where stadia, such as Ashton Gate, have a mixed use, it seems an anomaly that the stadium can encompass standing areas when being used for one purpose and not for another.

The social, cultural and architectural conditions applying in 2014 are different to those in the time that Taylor LJ reported. Many clubs in the Premier League and in the Football League inhabit stadia built since 1989 or substantially remodelled since then. The profile of spectators has changed making football less of a working class, male dominated pastime. The concern is now that there is a lack of access to matches as [ticket prices](#) are beyond the pocket of a new generation of football fans.^{xxxvii}

Rail seating when used in its locked upright position can be used as safe standing and, it is argued, would comply with the purposes of the Taylor Report. A ticket could be sold for each designated place in the safe standing area, achieving the objectives of recognition by the police and a place of safety for each spectator. Density could be monitored. With a waist-high rail in front and behind (stepped up in that case), there would be no concern that spectators would be pushed, jostled or uncontrollably moved from their designated place, let alone any concern that spectators would be crushed over barriers, the spectre of Leppings Lane.

Safe standing, by means of rail seating, in an area separated from seating^{xxxviii} so as to prevent migration from seating areas by spectators, would meet the criteria set out by Taylor LJ in his Report. Rail seating would, proponents of safe standing argue, meet the definition required of “seated accommodation” in the Football Spectators (Seating Order) Schedule 2.^{xxxix} There seems to be no *express* requirement in the definition of a “designated match” that an all-seated stadium should require spectators to be seated throughout – there is tacit acceptance they won’t be – then, so long as safety and comfort considerations are met, why should they be seated at all? It is only a condition of licences granted to all-seated stadia that spectators on entry may not stand in seated areas while play is in progress.

Opponents would argue that the intention of the legislator is clear that “seated accommodation” should be used as such.

The 2013 Report by the Sports Grounds Safety Authority “Standing in Seated Areas at Football Grounds” is implacably opposed to standing in seated areas.^{xl} However, the benefit of the installation of rail seating which can be used as safe standing would be to ensure that there was a choice of standing away from and separate to areas used for seating.

Conclusion

At the time of the Taylor Report, it was reported to the enquiry that most grounds had a ratio of one-third seating to two-thirds standing. A quarter of a century from the Report, the make-up of football grounds is completely different.

At the outset, three questions were posed:

1. Would the installation of rail seating at football stadia comply with current legislation?

As there is no definition of “seated accommodation”, it would seem self-evident that rail seating would comply with the undefined term in the Statute and Orders.

2. If installed, could rail seating be locked-up and used as safe standing area and comply with current legislation?

At rugby matches, there is no requirement that spectators are seated or that matches take place within all-seated accommodation. Bristol City could, subject to any licensing conditions, permit Ashton Gate to be used during rugby matches as partially standing, as the current definition of “designated matches” only covers football matches.

Subject to licences issued to the club, there is nothing in the legislation that requires spectators to be seated in all-seated accommodation. It can be argued that is the purpose of the legislation. It is arguable that as standing is expected, but not currently tolerated under licences, then so long as safety is paramount then standing may be permitted.

3. Are there grounds for arguing for a reintroduction of standing at top-flight football matches in England and Wales?

Proponents of safe standing argue that standing should be reintroduced at top-flight football so long as the purpose behind the Taylor Report is achieved. The Taylor Report offered up seating as a panacea and not necessarily as the only solution. With that in mind, even if standing in rail seating does not currently comply with legislation - a moot point - then there would seem to be strong grounds for saying that it can be allowed in the future with the introduction of rail seating.

Under current conditions, the reintroduction of some standing areas at stadia in England and Wales by means of the introduction of dedicated rail seating/safe standing would not only meet the purposes of the Taylor Report, but also comply with current legislation, and in one respect bring English football in line with German football.

In a further article, we will look at the implications for liability in tort, particularly occupiers’ liability, if rail seating was not introduced into stadia, and the concerns raised in the Standing In Seated Areas In Football Report of 2013.

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ⁱ The Football Supporters Federation, Safe Standing Campaign, <http://www.fsf.org.uk/campaigns/safe-standing/>

ⁱⁱ Rail seating (safe standing) installed for demonstration purposes at Ashton Gate Stadium, Bristol (home of Bristol City F.C.), used with permission of Bristol Sport

ⁱⁱⁱ Teams include Bayer Leverkusen, Borussia Dortmund, Hamburg, Wolfsburg, Hoffenheim, Stuttgart, Hannover 96 and Werder Bremen

^{iv} The Safe Standing (Football Stadia) Bill 2010-12, <http://www.publications.parliament.uk/pa/bills/cbill/2010-2012/0121/2012121.pdf>

^v On August 13th 2014, the SAG refused permission on grounds that the standing area was not sufficiently segregated from the seating areas: ‘Celtic safe-standing proposal not met with approval’, BBCSport, 13 August 2013, last viewed 3 October 2014, <http://www.bbc.co.uk/sport/0/football/28777621>

^{vi} Richard Conway, 'Safe-standing: Lib Dems make 2015 general election pledge', BBCSport, 24 August 2013, last viewed 3 October 2014, <http://www.bbc.co.uk/sport/0/football/28886330>

^{vii} Ashton Gate Stadium homepage, <http://www.ashtongatestadium.co.uk/>

^{viii} The Football Spectators (Seating) Order, SI 1994/1666 Sports Grounds and Sporting Events, 15 July 1994 - see Schedule 1 "Premises in respect of which a condition imposing requirements as respects the seating of spectators at designated football matches shall be imposed",

<http://www.legislation.gov.uk/uksi/1994/1666/made?view=plain> (made pursuant to powers contained sections 11(1) to (3) of the Football Spectators Act 1989, <http://www.legislation.gov.uk/ukpga/1989/37/section/11>)

^{ix} After the lease of their Eastville Stadium expired in 1986, Bristol Rovers entered into a ground sharing agreement with Bath City at Twerton Park. In 1996, Bristol Rovers acquired a half share from Bristol Rugby in the Memorial Stadium, and in 1998, on Bristol Rugby being placed in receivership, Bristol Rovers acquired the remainder of the Memorial Stadium.

^x "The Hillsborough Stadium Disaster", Final Report of an Inquiry by The Rt Hon Lord Justice Taylor, January 1990, Cm. 962, copy available to view at:

<http://hillsborough.independent.gov.uk/repository/docs/HOM000028060001.pdf>

^{xi} Ibid at 10, see particularly at paragraphs 22 – 57.

^{xii} Ibid at 10, see paragraph 26

^{xiii} Ibid at 10, see paragraph 29

^{xiv} Ibid at 10, see paragraph 61

^{xv} Ibid at 10, see paragraph 62

^{xvi} Ibid at 10

^{xvii} Ibid at 10

^{xviii} Ibid at 10, see paragraph 64

^{xix} Ibid at 10, see paragraph 62

^{xx} Ibid at 10, see paragraph 63 (emphasis added by the author)

^{xxi} *Re Televising Premier League Football Matches*, [2000] E.M.L.R. 78

^{xxii} Sections 11(1) to (3) of the Football Spectators Act 1989,

<http://www.legislation.gov.uk/ukpga/1989/37/section/11>

^{xxiii} Sports Ground Safety Authority homepage, <http://www.safetyatsportsgrounds.org.uk/>

^{xxiv} Ibid at 8 (and this is replicated in the other similar orders)

^{xxv} Ibid at 8, see Schedule 2 'Requirements to be imposed'

^{xxvi} Article 2(2) Football Spectators (Designation of Football Matches in England and Wales) Order 2000/3331, available to view at: <http://lexisweb.co.uk/si/2000/3301-3400/football-spectators-designation-of-football-matches-in-england-and-wales-order-2000>

^{xxvii} See Section 1 of the Football (Offences) Act 1991, <http://www.legislation.gov.uk/ukpga/1991/19/section/1> - that is currently defined in Article 3 Football (Offences) (Designation of Football Matches) Order 2004/2410 (as amended), <http://www.legislation.gov.uk/en/uksi/2004/2410/article/3/made>

^{xxviii} Department for Culture Media and Sports, *The Guide To Safety At Sports Grounds*, 5th Edition (published in 2008), <http://www.safetyatsportsgrounds.org.uk/sites/default/files/publications/green-guide.pdf>

^{xxix} The Wheatley Inquiry was set up to report into the 1971 Ibrox Disaster (1972 Cmnd 4150)

^{xxx} Ibid at 28, see chapter 12; note that reference is made to the current European Standard BS EN 13200:2003 Spectator

Facilities

^{xxxi} For new constructions this is 400mm.

^{xxxii} Ibid at 28, see chapter 12.20e

^{xxxiii} Ibid at 2

^{xxxiv} Bristol City is currently demonstrating barriers at three different heights at Ashton Gate Stadium

^{xxxv} 'Standing in seated areas at football grounds', A joint statement by the Sports Grounds Safety Authority, FA Premier League, Football League, Football Association, Core Cities Group, Football Safety Officers' Association,

and Association of Chief Police Officers, November 2013,

<http://www.safetyatsportsgrounds.org.uk/sites/default/files/publications/standing-in-seated-areas-2013.pdf>

^{xxxvi} See for example FA Premier League national fan survey 2001, The Sir Norman Chester Centre For Football Research

^{xxxvii} "Supporters set to protest against absurd ticket prices with FSF chief claiming 'nine out of 10 fans think football's too expensive' DailyMail.com, 12 August 2014, last viewed 2 October 2014, <http://www.dailymail.co.uk/sport/football/article-2723393/Supporters-set-protest-against-absurd-ticket-prices-FSF-chief-claiming-nine-10-fans-think-football-s-expensive.html>; The [Football Spectators Federation](#) has claimed that 9 out of 10 football fans consider football to be too expensive to watch, <http://www.fsf.org.uk/search?query=ticket+expensive&x=0&y=0>

^{xxxviii} The concern raised by the Glasgow City Council Safety Advisory Group in the Parkhead application

^{xxxix} Ibid at 8, see Schedule 2 'Requirements to be imposed'

^{xl} Ibid at 35