

RISK MANAGEMENT

Limiting liability for your sports facility

There are a lot of reasons to love a great stadium—your favorite team plays there, the seats have great views, it's the home of fond memories. Maybe it just has the best sushi in town. But when you run a sports venue, it's the less glamorous issues that keep you up at night: like how to limit the facility's liability. Because if you don't keep your facility safe and your liability limited, the results can be catastrophic.

WAIT, WHAT'S LIABILITY?

Put simply, liability is the risk that your organization will be sued for injuries (or property damage) that occur at your facility. You can never entirely eliminate liability, because some disasters simply aren't foreseeable. But if you make your facility as safe as possible, obtain waivers, and purchase liability insurance, you can dramatically reduce your risk.

SAFETY

Operating a safe sporting facility is the first step in limiting your liability. The primary reason why prioritizing safety will limit liability is that in order for players or visitors to win a lawsuit against the facility, they must first show that they or their property were harmed. If there's no injury, there's no basis for a lawsuit.

Even if something goes wrong and someone is injured, facilities that have done everything in their power to ensure that visitors are safe will be exposed to less liability. That's because venues can generally be held liable for injuries that result from situations that they knew or should have known were dangerous. If you know something is dangerous, you are obligated to mitigate that risk.

ON THE FIELD

Take, for example, a football field. If you place a wall too close to the end zone, it's reasonable to expect that a player may accidentally run in to it and injure himself. When the wall is already in place, it can be tempting to ignore the potential risk. But if a player does get hurt, he will have a strong claim that you were negligent because you should have anticipated how dangerous the wall was. It's far better to be cautious and attempt to mitigate the risk by padding (or even removing) the wall.

Another common source of injuries in facilities that cater to children, students, and community athletes are unanchored soccer goals. Weighting the bases of goals may be enough to keep them in place during most games. But when the game is over, and people are using the field for everything from Frisbee games to tailgates, unsecured goals can become hazardous. Over the last 50 years, close 100 people have been killed or seriously injured as a result of soccer goals falling on them. Many of those people may have been reckless—maybe they were hanging from the goal or attempting to climb it. But as a facility manager, you are expected to anticipate that people will do risky things, and you're expected to take precautions to limit the possibility that they will be injured.

Finally, it's important to remember that you need to be just as conscientious about maintaining safe practice facilities as you are about the primary field or court. Injuries that happen during practices (and the resulting suits) can be just as catastrophic as those that happen during the big game.

AND OFF THE FIELD

Facilities also need to minimize the risk to spectators. Visitors often sue for injuries wholly unrelated to the main sporting event, from slip-and-fall

cases, to injuries they sustain from other fans. Here, again, the best way to avoid a lawsuit is by preventing people from getting injured. That can mean trying to keep the floors dry (many venues sale all their drinks in oversize cups or cans to limit spilling). But it can also mean making sure you have adequate security to prevent spectators from getting into fights.

Put simply, if you run your facility well and take reasonable precautions to ensure that patrons are safe, you will not only minimize injuries but also limit your liability in the event that someone is injured.

EXCEPTIONS TO THE RULE

While facilities can be found liable for a wide range of injuries, they are generally not liable for injuries that are a direct result of the game. Essentially, the thinking goes that by playing sports at all, athletes assume certain risks. The facility is generally not liable for those injuries, unless its negligence helped cause the injury. For example, a football player who sustains a knee injury when he's tackled would be unlikely to win a case against the stadium, because that's a regular part of playing the game. However, if the same player sustains an injury because of the poor condition of the field, he may well have a claim against the stadium.

The same principal usually applies to spectators. For example, courts have found that by going to a baseball game, fans assume the risk of being hit by balls and broken bats that fly into the stands. As a result, they are unlikely to win a suit against the facility for their injuries. If the facility's negligence contributed to the injury, however, it may still be held liable.

As a manager, you need to think defensively in order to limit liability. Try to anticipate what could go wrong at your facility, and then think about what you can do to limit the risk. If you notice a potential hazard, take care of it as soon as possible.

TRAINING WORKERS

Good employees are essential to maintaining a safe and well run facility. As a facility manager, you should make sure that your workers understand that safety is a high priority for your organization. Establish clear policies so that workers who spot something that could be dangerous know what to do and who to take their concerns to. Find the areas where poor maintenance might lead to safety concerns and do routine checks to make sure everything is in order. Train employees to use checklists so they don't miss safety steps. And when you're hiring new workers, try to assess whether they will be safety conscious and committed to making sure the facility is as safe as possible. If you take safety seriously, your staff will too.

WAIVERS

No matter how cautious you are injuries will happen. In order to limit liability, it is essential for you to require athletes to sign waivers that limit suits against the facility. If the athletes are minors, the waivers must also be signed by their parents.

Waivers typically reiterate that the activity is inherently risky, and the participant waives claims against the facility for any injuries sustained. While waivers are essential for limiting liability (and often required by insurance carriers), they do not eliminate the possibility of being sued.

LIABILITY INSURANCE

So you've limited your liability by running a safe facility. You've trained your workers, and you've obtained liability waivers from athletes. But

something totally unexpected happened, and someone got hurt. Let's say, a light fixture fell from the ceiling. This is exactly the type of disaster liability insurance was made for—the unexpected, but potentially very costly disaster. No matter what other precautions you take, you must obtain adequate liability insurance.

Don't skimp on your insurance policy. You want to avoid the bitter pill of regularly paying premiums only to find that when something does go wrong, it isn't covered because of the fine print. When you're selecting a new policy, you should consult with an expert on fine print, like an agent or attorney, about what coverage your organization needs, and what options exists.

CLAIMS MADE V. OCCURRENCE POLICIES

Policies typically only cover incidents that happen while they are in effect. But "claims made" policies are even more restrictive. They only cover incidents if the claims themselves are made while you have that policy. So if you switch insurance after the incident, but before a claim is made, *you will not have any coverage for that claim*. This is particularly problematic for facilities that deal with children, because there is usually an exception to the statute of limitations that allows minors to wait till they become adults to make claims.

In contrast, "occurrence" policies cover incidents that happen while they are in effect regardless of when the claim is made. If you switch insurance down the line, the policy will still cover incidents that happened while you had the old policy.

ATHLETIC PARTICIPATION EXCLUSION

Some policies exclude coverage for athletic participants (typically everyone from players to coaches). This is an unacceptable exclusion for sports facilities. After all, the majority of your claims are almost certain to come from athletes and team staff. No matter how tempting the price tag, these policies are not appropriate for sporting facilities.

RIDERS AND OTHER COVERAGE

In addition to a general liability insurance policy, your facility should consider riders that offer other types of liability coverage. Depending on how your facility operates, there are some common riders you should consider. If your facility serves alcohol, you should be sure to purchase liquor liability coverage. You should also consider some form of business auto liability coverage (i.e., a policy that covers any accidents employees get into while driving their personal vehicle for work purposes). Finally, if you have a large staff, you may wish to purchase employee benefits liability coverage, which will protect you from claims of negligence in the administration of employee benefit programs.

You can't eliminate liability or the possibility of an accident at your facility. But by taking careful precautions and obtaining adequate insurance, you can make your facility's liability manageable. ■

This article provides general information on facility liability matters and should not be relied upon as legal advice. A qualified attorney must analyze all relevant facts and apply the applicable law to any matter before legal advice can be given. Patrick McGuiness is a partner at Zlimen & McGuiness, PLLC. His law practice focuses on assisting green industry businesses and organizations with a wide range of legal issues. He can be reached at p McGuiness@zmattorneys.com.

A "BASIC" TRIP OVERSEAS REVEALS WHAT MATTERS IN TURF CARE

Safety, playability and aesthetics are the objectives of the sports turf manager. The single best way to achieve these three goals is having grass cover. Healthy, dense turfgrass goes a long way in assuring a field that is safe for the athletes, plays well and looks great. Detrimental to achieving an outstanding playing surface is wear, whether it is on a municipal field or at a professional stadium. Heavy wear affects footing, field hardness, consistency and aesthetics. Conquer wear and many problems are solved. Obviously limiting play is number one in combating wear, but beyond that what makes the difference?

Last summer I was fortunate to have travelled to the

United Kingdom to further my turf management education. The trip confirmed the deep-rooted concepts on turf management that many of us have been taught. Despite this training, we sometimes pay attention to the fringes of turf management, chasing problems with technology fixes and losing sight of what matters most. *The basics are what matter* when it comes to fighting wear. Growing environment, soil, species and cultivar selection: these are the foundations for fighting wear. They are more important than critical cultural practices. Yes, we need to irrigate properly, aerate, overseed, verticut and fertilize because of their importance, but the basics make the difference.

My first stop in England was at the Sports Turf Research

▼ The Yorkshire Dales.





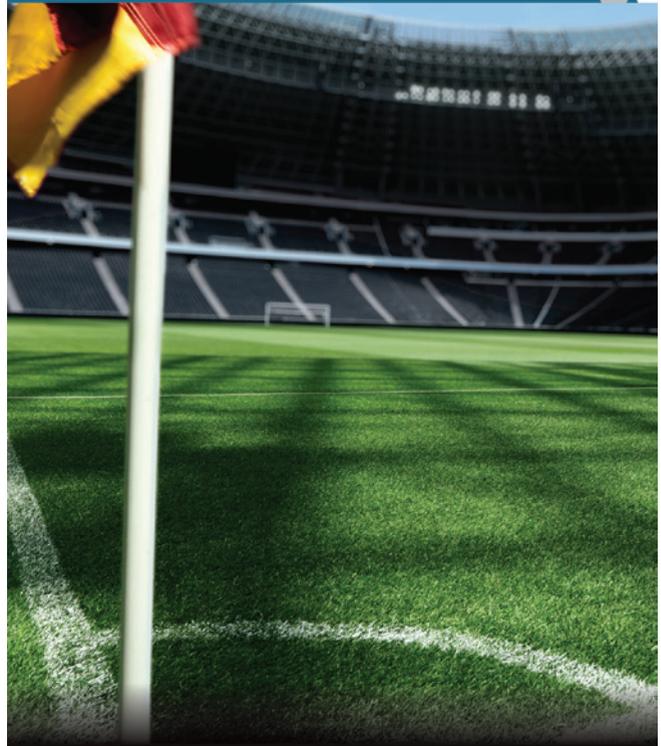
▲ **Wimbledon, Court 1.** Grow-in of new cultivars of perennial ryegrass.

» Much of their turfgrass research is similar to what occurs at American universities with the biggest difference being that **STRI concentrates much of their work on wear tolerance.**

Institute (STRI) in Yorkshire. But before my visit, I was able to do some hiking in the Yorkshire Dales. What does this have to do with sports turf management? On the theme that basics matter, the Yorkshire Dales are a perfect example of the importance of a brilliant growing environment. The Dales are river valleys that have acres and acres of almost perfect grass. No pesticides, fertilizers or irrigation are used and the meadows are frequently mowed by herds of sheep. There are hardly any weeds and the hiking paths show little signs of wear. What they do have is an ideal growing environment. It rarely gets too hot, they receive just the right amount of rain and suitable grass species are used. These vast areas have very few inputs but they are thriving. Proper fundamentals take care of most of their turf management challenges.

From the Yorkshire Dales, I headed to the STRI in Bingley for a tour from Head of Turfgrass Biology, Dr. Andrew Newell. The STRI performs turfgrass research and consults for many of the top sports events in the world such as The Open Championship (British Open), FIFA World Cup and Wimbledon. Much of their turfgrass research is similar to what occurs at American universities with the biggest difference being that STRI concentrates much of their work on wear tolerance. After being subjected to large amounts of artificial play, the differences in cultivar wear tolerance are striking and easy to see with some plots being almost completely deteriorated and some looking like no wear had been applied. Even product testing is aimed at wear tolerance, with many turfgrass plots subjected to different regimens of fertilizers, growth regulators and other products that claim to help with wear. They can scientifically show which of these products are effective and which ones are of little use when fighting wear. Choosing wear tolerant

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▲ **Test area plots** at the Sports Turf Research Institute, Bingley, England

cultivars is essential and gives the best possible chance of having a solid sward of grass.

After Yorkshire, I moved on to Wimbledon, home to grass tennis courts that receive some of the most intense play of any sport. With over 400 million television viewers each year and the best tennis players in the world competing, safety, playability and aesthetics are all an integral part of the Championships. To accomplish this, wear must be minimized. Under the leadership of groundsman Eddie Seaward and Neil Stubley, Wimbledon, along with science-based recommendations from the STRI, has conquered many of their wear problems by making sure they take care of the basics. Devotion to fundamentals has allowed for sections of the grass tennis courts that typically had 10-20% grass cover at the end of the tournament to now have 80% coverage.

The basics for Wimbledon in order of importance are (my ranking):

1. Grass species selection
2. Cultivar selection
3. Measurement
4. Cultural practices

After exhaustive research Wimbledon decided on perennial ryegrass as their preferred species. No grass is a perfect fit for tennis, but ryegrass offers the best balance between wear tolerance and playability. Along with this they have declared all-out war on *Poa annua*. Each grass court is stripped after the Championships and replanted with ryegrass so that *Poa* has virtually been eliminated from the courts. Using the best species that meet their particular tennis requirements gives them the head start they need to deal with

massive amounts of play in concentrated areas.

Choice of perennial ryegrass cultivars evolves almost every year so that new, improved grasses are being introduced. Wear tolerance is not the only criteria used to select cultivars; color (both winter and summer), texture and ability to tolerate mowing at 8mm are also essential. Picking the right varieties can make the difference between having no grass or 80% coverage on high play areas of the court.

Ranking measurement third ahead of cultural practices may seem out of order for most of us, but for a tennis tournament that needs perfection on the courts for 2 weeks straight, there is no question of its importance. Groundsmen know exactly how much moisture is in each court, how firm they are, and how much grass coverage they have each day so informed decisions can be made on cultural practices leading up to the tournament and precise decisions can be made during the tournament. All 19 Championship courts are prepared to be consistent with each other and records are kept so that tournament officials, players and groundsmen

know exactly how the courts played and fared.

Cultural practices are last on my list, but not because they are unimportant. Wimbledon aerates, verticuts and topdresses frequently and these practices are just as important to their success as they are to all turf managers. Since Wimbledon has taken care of the species, cultivar and measurement aspects, cultural practices are the piece that builds on top of the basics for a superior product and an epic playing surface.

As sports turf managers, we have an immense amount of modern resources to assist us in growing grass. Specialty fertilizers, biostimulants, growth regulators, wetting agents are some of the tools many of us use to step up to a next level of quality

field. Yes they matter and help, but many times they are used to improve our fields by a small percentage. A trip to the United Kingdom reminded me of the enormous advantages of proper growing environment, choosing the right grass and sound agronomic strategies and that the basics count most when striving to maintain grass cover. ■

Michael Buras, CSFM, is head groundskeeper at the Longwood Cricket Club, Chestnut Hill, MA.



▲ **Cleats on wear machine** at the Sports Turf Research Institute, Bingley, England



▲ A unique checkerboard pattern was featured at the Little League Softball World Series at Alpenrose Field in Portland, OR. Photo by Profile Products.

FIVE STEPS to transform your field for tournament time

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Tournament season is supposed to be memorable for all involved, from the teams and players to the parents and spectators who spend an entire weekend, or longer, at the tournament site.

Field managers at any level of play can improve their fields with a few easy steps to ensure that players and spectators are presented with a tournament-ready field that is both presentable and playable.

1. MANAGE YOUR INFIELD SKIN

No tournament is going to give spectators and players the sense of something special if the basics aren't covered. Make sure the base infield soil is maintained effectively by dragging the skin and applying moisture. Prevent a dry, cracked infield by watering deeply in the days leading up to the tournament. Incorporating a calcined

clay conditioner like into the infield mix will help to hold moisture, releasing it slowly to create a balanced moisture reservoir in the infield mix, giving your field a consistent level of play throughout the tournament. Applying a topdressing layer before play ensures good footing on the surface and gives you a terrific moisture management tool if rains do threaten to disrupt play. Conditioners also help fight compaction and create a cushioned, playable surface.

Also, make sure there are no holes on the pitcher's mound or batter's boxes. Repair any low spots along the infield that could create unsafe conditions or lead to bad hops during play.

2. ADD A SPLASH OF COLOR

"Making a field pop goes a long way to creating an atmosphere at the ballpark where the athletes and spectators know that this is a special weekend," says Jeff Langner, brand manager at Surface



▲ **Georgia Tech** chose a dyed conditioner to give its field a distinct look. Photo by Profile Products.

Athletics. “Tournament season is a great time for field managers and tournament hosts to give the diamond a look that leaves a lasting impression.”

Oftentimes, Langner says, a little goes a long way to creating that visual impact.

For example, while it can create dramatic visual impact to completely change the infield color with a dyed conditioner, a field manager can apply colored particles in select areas only, at a much lower cost. It only takes a few bags of a professional-level infield conditioner applied to the mound and plate areas to help them stand out.

Other aesthetic changes to think about for tournament season include repainting the coach’s boxes and the foul lines in the outfield.

3. BETTER THE BASE PATHS

A firm base path means a fast base path, which is a trait of any quality field worthy of tournament play. Top the first and third base paths with calcined clay—about two bags into the top inch of dirt along the paths—and moisten without saturating. Then, roll the paths until they are firm to maintain a safe infield throughout the tournament. Avoid dragging the base paths; instead, hand-rake those areas as necessary, which will keep the infield mix tight.

4. PREP THE SKIN

“Keeping a field safe and playable for the athletes should be first and foremost on the mind of any field manager put in charge of a tournament, even more than aesthetic upgrades,” Langner says. “Preparing the field for the elements and ensuring the ball bounces true throughout the weekend are great ways to pulling off a tournament worth remembering.”

Proper infield maintenance is critical for quality of play for the players. For starters, fix any low spots in the infield before each day of play. These are more likely to occur near the bases, in leadoff areas

and sliding pits. Low spots can be built back up by scraping away any loose material or conditioner; adding infield mix to the low spot (preferably matching the sand/silt/clay content of the base soil); and tamping it firm. Repeat this process until the area is up to grade, and then top with a light layer of conditioner.

Also, be on the lookout for lips, which can create dangerous conditions for the players.

Hand-raking the infield edges will prevent materials from building up in the edges of the turf and causing a lip to form. If infield mix works its way into the turf during routine maintenance or the course of a game, take a broom and sweep all loose materials lying in the turf back onto the skinned surface. Then remove any grass that is swept onto the infield with a rake.

Another option to remove lips is to use a garden hose and high-pressure nozzle and spray the infield mix and conditioner out of the grass back onto the infield dirt. Spray at a 45-degree angle toward the infield while someone else helps to pull the loose material out of the grass, using a hard-tooth rake.

5. PREVENT RAINOUTS

Summer thunderstorms are a part of life for many regions of the US during tournament season. Unfortunately, that means a lot of rain can pour down on a field in a short amount of time and cause long delays or even cancellations if the proper preparations aren’t made before tournament play begins.

Prevent infield puddles from forming by properly grading the infield, taking proper care when dragging the field, and fixing low spots if they form. Again, topdressing with a calcined clay helps soak up excess moisture from a rain event to ensure good footing and prevent delays.

Preventing slick, muddy spots from forming in the outfield grass is important too. Apply a topdressing of soil conditioner like at a rate of 500 pounds per 1,000 square feet to protect the turf in advance of rain. This will help absorb any future moisture on the field while also helping amend the soil long term.

If a storm has already passed through the area, it’s not too late to prevent a major delay in play. To clean up puddles in the infield, specially designed drying agents like can be dumped onto the area and raked as needed to eliminate water and mud. In the outfield turf, apply a soil conditioner directly out of the bag into the puddle or muddy area. Allow it to absorb the water and rake the material into the turf and resume play.

Take the time to walk your field and look for any potential hazards before the start of tournament play. Making minor repairs and small improvements can have a huge impact on whether your tournament is fun, safe, and memorable for players and spectators alike. ■

Swanson Russell represents Turface Athletics, which markets among other products Professional Mound Clay, MoundMaster Blocks, Turface MVP, Pro League, Pro League Heritage Red, Champion Brown, Field & Fairway, and Turface Quick Dry.