



SCOTTISH GOLF  
UNION



SCOTTISH LADIES'  
GOLFING ASSOCIATION

## Update on Golfers and Golf Clubs Health & Safety and Insurance

In a recent court judgement, golfer Anthony Phee was awarded £397,000 having lost an eye after being struck by a wayward drive whilst playing at Niddry Castle Golf Club in West Lothian. James Gordon's tee-shot from the 18<sup>th</sup> hole struck Mr Phee walking on a path between the 6th and 7th holes. Mr Gordon was deemed 70% liable, while the club 30% liable for having no warning signs at the tee or the path.

For the court's opinion visit <http://www.scotcourts.gov.uk/opinions/2011CSOH181.html>

The decision brings into sharp focus a number of issues including:

- Every golfer's responsibility to exercise due care towards other golfers
- The importance of clubs adopting a robust Health & Safety Management System
- The potential liability of club committee members and office bearers
- The importance for both clubs and golfers in taking out appropriate insurance

### 1. Golfer's Responsibility

In this case, Mr Gordon was deemed 70% liable. Golfers are encouraged to exercise appropriate caution at all times during a round of golf to avoid such a scenario. In addition, individual golfers are encouraged to consider a golf-specific insurance policy to protect themselves from situations such as this one and indeed other risks, at whichever golf course they are playing (see below).

### 2. Health and Safety Management

In his opinion, the judge found the club 30% liable, citing the lack of warning signs at the tee or path. Clubs are advised to maintain a robust health & safety management system to manage risks appropriately.

It is also advisable for committees to demonstrate that items of such significance have been discussed thoroughly at committee meetings. For example, a club committee that has instructed one of its members to work in isolation in implementing a H&S system without reference to the committee and with an absence of minuted actions may be more significantly at risk than a club that has a standard agenda item such as 'Health & Safety' or 'Risk Management' and can demonstrate that the whole committee gives due consideration to such matters (this principle applies to any such area of risk). Such an approach could act as a basis for mitigating the club's liability.

For further information on the XACT Health & Safety Management Service, free of charge to affiliated clubs, visit <http://www.scottishgolf.org/go/club-services/health-and-safety>

### **3. Liability of Club Committee and Office Bearers**

For unincorporated associations, club committee members and office bearers are potentially liable in cases such as this. There are steps clubs can take to protect themselves.

The club constitution should be clear on the role of committee members and office bearers. Clause 5.7 in the SGU/SLGA Model Constitution covers this point and committee members and office bearers should make clear that they enter any contracts or obligations on behalf of the Club in their capacity as a trustee. To view this model constitution, visit <http://www.scottishgolf.org/go/club-services/governance>

A club can also protect its committee members and office bearers by taking out an appropriate insurance policy. More details can be found in the Insurance section on page 2.

### **4. Insurance**

Fortunately, incidents such as this are rare but accidents do happen. For a number of years, the SGU has partnered with Carrick Neill, our official insurance broker. Carrick Neill provides insurance for hundreds of clubs and thousands of individual golfers.

David Miller, Golf Director of Carrick Neill, explains: “We live in a compensation culture and we are all bombarded by offers from no-win, no fee companies which make it significantly easier for claimants to seek compensation.”

Golfers considering taking out cover can find out more information at [www.golferspolicy.co.uk](http://www.golferspolicy.co.uk)

Clubs wishing to explore club specific insurance including protection for committee members and office bearers can find out more information at <http://www.carrickneill.co.uk/fsgolf.html> alternatively, contact David or a member of his team on 0131 225 7777.

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