

7

IMPLICATIONS FOR COACHING PRACTICE

Introduction

The responsibility of sports coaches in discharging their duty of care, by adopting reasonable coaching practice when interacting with athletes, is becoming more pronounced. This poses significant implications for modern sports coaches. As the previous chapters reveal, the legal duty of care incumbent upon coaches would be breached when the conduct of a sports coach falls below the required objective standard ascertained by the court, when guarding against reasonably foreseeable risk, in the specific circumstances of the individual case. This benchmark of objective reasonableness is defined to safeguard the legitimate and genuine right of athletes not to be exposed to unreasonable risks. Crucially, however, providing coaches discharge and meet this standard of care and skill, there can be no breach of duty. Simply applied, the duty of a coach remains a requirement to adopt reasonable coaching practice so that reasonable care is taken to ensure the reasonable safety of athletes. It has previously been argued that the legal test of reasonableness may be regarded as vague, nebulous and uncertain, which promotes the view that there is no ‘transparent, fixed and universally accepted boundary . . . between appropriate and inappropriate coaching conduct’.¹ Nonetheless, and as discussed in detail in Chapters 5 and 6, a coach’s duty of care demands that definitions of appropriate or reasonable coaching practice must be capable of being logically justified and withstanding searching and robust judicial scrutiny. As will be contended in this chapter, whilst regular and approved coaching practice remains integral to defining reasonableness in this context, there appears strong support for further

1 A Hardman and C Jones, ‘Sports coaching and virtue ethics’ in A Hardman and C Jones, *The Ethics of Sports Coaching* (Abingdon, Routledge 2011) 78.

discussions concerning legal (and ethical) dilemmas drawn from practical coaching scenarios in order to support coaches in developing proper and effective coaching practices.² In this regard, the previous detailed analysis of sports negligence case law generally,³ and instances of alleged coach negligence in particular,⁴ prove instructive and insightful.

Accordingly, this book's critical analysis of the relationship between coaching, sport and the law is drawn together in this chapter to identify important implications for coaches exercising their duty of care. When defining a coach's duty of care an extremely useful starting point is the acknowledgment that '[i]n law context is everything',⁵ and 'the issue of negligence cannot be resolved in a vacuum. It is fact specific'.⁶ This chapter, therefore, begins by discussing some of the specific background considerations connected with coaching. These considerations include a number of challenges faced by modern sports coaches associated with possible excesses of coaching behaviour, the dangers of negligent entrenched practice, the differing environments in which coaches perform their functions and the tendency for the prevailing standards required of coaches to heighten over time. Following this contextualisation, key findings from the critical analysis of the emerging and fact-specific case law in the previous chapters are consolidated to uncover important implications for coaching practice. These implications are of particular relevance when reflecting on the (un)reasonableness of some coaching behaviours and on the benchmark of regular and approved coaching practice and the associated *Bolam* 'defence'. Moreover, this chapter's analysis also calls for distinctions between formal qualifications and experience, as indicators of coaching competence, to be more fully explored. The focus of this discussion relates to the full range of the duties of coaches. However, in view of the increased judicial attention afforded to the risk assessment process, as reiterated in Chapters 5 and 6, a coach's duty of care regarding this aspect of risk management warrants discrete examination. The chapter concludes by highlighting a number of broader considerations related to coach education, training and development, and the role of national governing bodies (NGBs) in adequately preparing coaches so that they can effectively discharge their duty of care.

Context

As the principal supervisors of organised sporting activities, coaches must appreciate that participation in sport frequently leads to injury.⁷ Accidents can and do

2 T Cassidy et al., *Understanding Sports Coaching: The Social, Cultural and Pedagogical Foundations of Coaching Practice* (2nd edn, London, Routledge 2009) 169.

3 See Chapter 4.

4 See Chapters 5 and 6.

5 *Regina (Daly) v Secretary of State for the Home Department* [2001] 2 AC 532 (HL) [28] (Lord Steyn).

6 *Caldwell v Maguire* [2001] EWCA Civ 1054 [30] (Judge LJ).

7 A Miles and R. Tong, 'Sports Medicine For Coaches' in RL Jones and K Kingston (eds), *An Introduction to Sports Coaching: Connecting Theory to Practice* (2nd edn, Abingdon, Routledge 2013) 178.

happen without fault. However, in circumstances where sporting injury was caused by a breach of duty of care, or negligent coaching, legal liability may increasingly eventuate. The interpersonal relationship between coach and athlete creates the capacity for a lack of 'empathy with or care and concern for the wellbeing of the other person'.⁸ Some coaches may seek to gain any 'edge' possible when conforming to the 'win at all costs' mentality frequently prevalent in a range of competitive sports.⁹ Such expectations and pressures may promote what might be termed as the 'sport ethic', with over-conformity to this ideology reinforcing the acceptance of unreasonable risks by both coaches and athletes, as evidenced by an over-emphasis on the pursuit of winning and a refusal to accept appropriate and necessary limitations.¹⁰ Many admired and respected coaches are arguably held in such high regard because of this notable commitment and insistence on an excessive 'win-at-all-costs' ethos.¹¹ It is argued by Alexander, Stafford and Lewis that young athletes in the UK may 'accept a culture where training through discomfort, injury and exhaustion is seen as normal'¹² and that some coaches encourage athletes, or 'guilt' them, into continuing to participate in these same circumstances in order to avoid letting teammates down. As suggested by Coakley and Pike, coaches may:

take great care to control deviant underconformity, but they often ignore or encourage overconformity, even though it may lead to injuries and have long-term negative implications for the health and well-being of athletes. Therefore, in the culture of high-performance sports, these norms are accepted uncritically, without question or qualification, and often followed without recognizing limits or thinking about the boundaries that separate normal from deviant.¹³

Excesses of coaching behaviour may not be confined to high-level competitive sport since a culture of control and authoritarianism appears deeply embedded, even at the lower levels of the sports performance pyramid.¹⁴ For instance, reputation and kudos at the amateur level may facilitate adoption by coaches of high-risk

8 J Lyle, 'Coaching Philosophy and Coaching Behaviour' in N Cross and J Lyle (eds), *The Coaching Process: Principles and Practice for Sport* (Philadelphia, Butterworth-Heinemann 1999) 43.

9 L Jamieson and T Orr, *Sport and Violence: A Critical Examination of Sport* (London, Elsevier 2009) 95.

10 Ibid. 80–81.

11 K Young, 'From Violence in Sport to Sports-Related Violence' in B Houlihan (ed), *Sport and Society: A Student Introduction* (2nd edn, London, Sage Publications 2008) 189; K Young, *Sport, Violence and Society* (London, Routledge 2012) 81–82; J Ryan, *Little Girls In Pretty Boxes: The Making and Breaking of Elite Gymnasts and Figure Skaters* (London, Warner Books Edition 1995) 220–21.

12 K Alexander et al., *The Experiences of Children Participating in Organised Sport in the UK* (Edinburgh, University of Edinburgh/NSPCC Child Protection Research Centre 2011) 14.

13 J Coakley and E Pike, *Sports in Society: Issues and Controversies* (2nd edn, New York, McGraw-Hill Education 2014) 160.

14 Cassidy et al. (n 2) 32.

practices with the potential to cause physical harm,¹⁵ it being assumed that some coaches at the non-professional level appear unsympathetic to athletes complaining of being injured.¹⁶

Arguably, authoritative and oppressive interaction between coaches and players, and possible implementation of punishment type drills and practices, may become regarded as routine and acceptable in certain circumstances.¹⁷ Take, for example, some of the conditioning/punishment type drills modelled, reinforced and portrayed as necessary and effective coaching practice in contemporary films such as *Coach Carter*, *Remember the Titans* and *Best Shot*. Included is a high-intensity shuttle-sprint training drill, commonly referred to as ‘suicides’. Whilst many coaches will, no doubt, utilise such methods reasonably, as this book’s legal analysis reveals, coaches must be cautious when using exercise drills as a form of punishment.¹⁸ In advocating the avoidance of such terminology as ‘suicide’ drill by coaches, Appenzeller notes that this and similar terms ‘could come back to haunt you in court should an injury occur’.¹⁹ Put bluntly, it may be particularly challenging for coaches engaging in such coaching methods as a matter of habit, routine or ‘uncritical inertia’²⁰ to justify such practice as being objectively reasonable. As broadly alluded to in Chapters 5 and 6, such practice appears a possible scenario with the potential for negligent entrenched practice to be ‘accepted uncritically, without question or qualification, and often followed without recognizing limits or thinking about the boundaries that separate normal from deviant’.²¹ In short, contextualisation of modern sports coaching emphasises the considerable scope for the practices sometimes adopted by some coaches to cross the boundary between that which is reasonable in optimising performance and that which would amount to negligence.

15 K Young, ‘The Role of the Courts in Sports Injury’ in K Young (ed), *Sporting Bodies, Damaged Selves: Sociological Studies of Sports-Related Injury* (Oxford, Elsevier 2004) 343.

16 K Young and P White, ‘Threats to Sport Careers: Elite athletes talk about injury and pain’ in J Coakley and P Donnelly (eds), *Inside Sports* (London, Routledge 1999) 208; H Charlesworth and K Young, ‘Why English Female University Athletes Play with Pain’ in Young (n 15) 167; E Pike and A Scott, ‘Safeguarding, injuries and athlete choice’ in M Long and M Hartill (eds), *Safeguarding, Child Protection and Abuse in Sport: International Perspectives in Research, Policy and Practice* (London, Routledge 2015) 174. Similarly, at the professional level, some coaches would also appear unsympathetic to athletes complaining of being injured. See, for instance, D McRae, ‘Alex Corbisiero: “Even Now People Will Frown if You Need a Rest”’ *The Guardian* (London, 5 May 2016) <www.theguardian.com/sport/2016/may/05/alex-corbisiero-rugby-union-england-lions?CMP=share_btn_tw> accessed 28 October 2019.

17 P Kellett, ‘Football-as-War, Coach-as-General: Analogy, Metaphor and Management Implications’ (2002) 5 *Football Studies* 60, 70; J Ehrmann, *InSideOut Coaching: How Sports Can Transform Lives* (New York, Simon & Schuster 2011) 80.

18 G Wong, *Essentials of Sports Law* (4th edn, Oxford, Praeger 2010) 111.

19 H Appenzeller, *Ethical Behavior in Sport* (Durham, Carolina Academic Press 2011) 153.

20 M Partington and C Cushion, ‘An Investigation of the Practice Activities and Coaching Behaviors of Professional Top-Level Youth Soccer Coaches’ (2013) 23 *Scand J Med Sci Sports* 374. Discussed further later.

21 Coakley and Pike (n 13) 160.

This somewhat nebulous dividing line is of critical importance when defining the duty of care owed by coaches to athletes under their charge.

Sports coaching involves both rapid and intuitive decision-making in the environments of training and competition,²² with associated and necessary structured improvisation.²³ However, an important distinguishing factor in the circumstances of sports coaching, as contrasted with the case law derived from instances of co-participant liability discussed in Chapter 4, may relate to a void of special allowance for 'errors of judgment' or 'lapses of skill' made in the preparation for competition as opposed to during competition.²⁴ Preparation for matches and competitions by coaches would sometimes appear more analogous with *Harrison v Vincent*,²⁵ where failure to maintain a motorcycle before a race led to a finding of negligence. Given the significance of context when defining a coach's duty of care, there may be scope for the argument that in the circumstances of a competitive match the standard of care and skill required of coaches may differ from that needed during a practice session. Coaches can more readily control environmental factors, including the level of intensity and pace of activities, during training sessions. However, application of such a principle may become somewhat limited with some experienced and advanced coaches seeking to replicate, if not surpass, the physical and psychological pressures of match competition in training sessions, the widely held view being that 'perfect practice makes perfect'. Nonetheless, the supervisory function of the coach during practice sessions clearly allows for 'a stoppage in play, thereby enabling time for considered thought'.²⁶ As such, and in paraphrasing the observations of Lord Phillips in *Vowles v Evans*, very different considerations might apply when defining the extent of a coach's duty of care during a practice session as compared with a fast-moving competitive match.²⁷ Accordingly, whilst consideration of the specific context of sport may enable the court to distinguish between the expression of objective reasonableness and the practicalities of the evidential burden of 'reckless disregard',²⁸ as with other professionals, it does not necessarily follow that a coach would be exonerated from negligence liability for a mere 'error of judgment'.²⁹ Indeed, and as revealed in Chapter 6, in *Anderson v Lyotier*, the defendant ski instructor was found to be in breach of duty since 'he took his eye off the ball on this particular occasion'.³⁰

22 H Telfer, 'Coaching Practice and Practice Ethics' in J Lyle & C Cushion (eds), *Sports Coaching: Professionalisation and Practice* (Edinburgh, Elsevier 2010) 214.

23 See generally, C Cushion and J Lyle, 'Conceptual Development in Sports Coaching' Lyle and Cushion (n 22) 4.

24 See generally, MA Jones and AM Dugdale (eds), *Clerk and Lindsell on Torts* (20th edn, London, Sweet and Maxwell 2010) [8–145].

25 [1982] RTR 8. Discussed in detail in Chapter 4.

26 *Vowles v Evans* [2003] EWCA Civ 318 [38].

27 *Ibid.*

28 E.g., *Caldwell* (n 6) [11]. See further, Chapter 4.

29 See Jones and Dugdale (n 24) [10–03].

30 *Anderson v Lyotier* [2008] EWHC 2790 [120].

More generally, the standard of skill and care incumbent upon coaches continues to evolve, since it is the responsibility of coaches to be up-to-date with sport-specific knowledge, given techniques in sport are subject to rapid change.³¹ For instance, the management of sport-related concussion represents a contemporary example of advances in knowledge leading to the publication of best practice protocols by NGBs.³² However, there may also be general improvements in the standards of skill and care provided by particular professions, regardless of associated advances in knowledge, similarly heightening the standard of the reasonably competent practitioner.³³ In this situation, practice previously viewed as tolerable may come to be regarded as negligent,³⁴ reinforcing the need for coaches to be familiar with the publication of written recommendations by NGBs, including approved codes and guidelines reflecting the best practices of the 'profession'. Nonetheless, the standards observed by the ordinarily skilled and competent coach would be judged by the standards prevailing at the time of their acts or omissions, and so should not be affected by the wisdom of hindsight.³⁵ This was succinctly articulated in *Villella v North Bedfordshire BC*, when Otton J recognised the need to be careful when determining reasonable coaching practice so as not to 'import into 1980 standards which may have evolved at a later stage with the wisdom of hindsight and the increased sophistication of this particular sport'.³⁶

Coaching practice

The pivotal issue should a coach be sued in negligence (for a breach of duty) concerns whether or not the coach's actions, conduct or behaviour satisfied the required standard of reasonable care and skill, as defined by the court, after taking full account of the prevailing circumstances of the case. This obligation encompasses both acts and omissions (i.e., negligent instruction and inadequate supervision). In the context of sports coaching, this would relate to coaching practices that have an explicit impact on the athlete, most typically, direct coaching interventions and interactions in the particular circumstances of training, practices, competitions and fixtures.

Much contemporary coaching practice appears to be derived from tradition and 'uncritical inertia'.³⁷ This may 'authenticate certain types of collective knowledge

31 G Nygaard and T Boone, *Coaches Guide to Sport Law* (Champaign, Human Kinetics 1985) 24. Also see, J Gardiner, 'Should Coaches Take Care?' (1993) 143 *NLJ* 1598.

32 As noted by Meakin, this may be the case despite inconclusive medical evidence regarding the issue of causation: T Meakin, 'The Evolving Legal Issues on Rugby Neuro-Trauma?' (2013) 21(3) *Sport and the Law Journal* 34.

33 J Powell and R Stewart, *Jackson and Powell on Professional Liability* (7th edn, London, Sweet and Maxwell 2012) [2-135].

34 *Ibid.*

35 *Eckersley v Binnie* [1988] 18 ConLR 1 (CA).

36 *Villella v North Bedfordshire BC*, 25 October 1983 (QBD).

37 Partington and Cushion (n 20); AM Williams and NJ Hodges, 'Practice, Instruction and Skill Acquisition in Soccer: Challenging Tradition' (2005) 23(6) *Journal of Sports Sciences* 637; Ehrmann (n 17) 80.

with the resulting discourse giving certain practices an entrenched legitimacy'.³⁸ Problematically, in circumstances where this entrenched legitimacy exposes athletes to unreasonable risk of injury, coaches are in breach of their duty of care. This fact illustrates the need for coaches to have the prerequisite self-awareness to understand both the positive and negative implications of their behaviour.³⁹ These observations appear to be of considerable relevance when coaches are discharging their duties, with research indicating that coaches may demonstrate low self-awareness about their coaching practice and conduct.⁴⁰ Consequently, the reasonableness of demands made of athletes by coaches may not always be sufficiently appraised, evaluated and reflected upon.

A significant ethical and legal dilemma facing modern sports coaches and, not least, when working with young athletes, concerns determination of training intensity levels.⁴¹ As a judgement call, this is an area where individual coaches have considerable leeway to decide what is reasonable in the specific circumstances.⁴² According to Martínková and Parry:

The dangers of over-training and inappropriate methods have long been recognized, as have the duties of the coach to be knowledgeable and well informed, to take care over the appropriate design of training session schedules, and to monitor athletes for signs of weariness and distress.⁴³

In terms of appropriate coaching practice, Cross and Lyle continue:

[C]oaches have a responsibility to implement a coaching process, especially with elite and high-level performance athletes, which is comprehensively planned, adequately and frequently monitored and in which, through careful regulation of the training loading factors, the athlete's progress and wellbeing are constantly emphasised in order to avoid 'overtraining'.⁴⁴

Yet despite this suggested long recognition of the risks posed to athletes by over-training and inappropriate training methods and practices, research would indicate that excessive training, both in terms of the intensity and duration of sessions,

38 C Cushion and M Partington, 'A Critical Analysis of the Conceptualisation of "Coaching Philosophy"' (2014) 21(6) *Sport, Education and Society* 851, 857.

39 C Cushion, 'Coach behaviour' in Lyle and Cushion (n 22) 53.

40 Partington and Cushion (n 20) 381; S Harvey et al., 'A Season Long Investigation into Coaching Behaviours as a Function of Practice State: The Case of Three Collegiate Coaches' (2013) 2(1) *Sports Coaching Review* 13, 14.

41 See, for instance, Miles and Tong (n 7) 188–89; J Lyle, *Sports Coaching Concepts: A Framework for Coaches' Behaviour* (London, Routledge 2002) 240; J Oliver and R Lloyd, 'Physical Training as a Potential Form of Abuse' in Long and Hartill (n 16) 163. See further, Chapter 5.

42 Cassidy et al. (n 2) 154–55.

43 I Martínková and J Parry, 'Coaching and the Ethics of Performance Enhancement' in Hardman and Jones (n 1) 177–78.

44 N Cross and J Lyle, 'Overtraining and the Coaching Process' in Cross and Lyle (n 8) 192.

remains a concern.⁴⁵ Consistent with this book's legal analysis, overtraining, or training requiring an unreasonable level of intensity, may provide the foundation for a cause of action in negligence.⁴⁶ Further, coaches must be mindful to avoid exerting undue pressure or influence on players returning from injury, in addition to discharging responsibilities regarding appropriate medical care of athletes, including pertinent referral to relevant specialist medical practitioners and adherence to stipulated protocols.⁴⁷

Effective coaching practice will appropriately stretch and challenge participants, and as recognised by the High Court in both *Anderson v Lyotier* and *Ahmed v MacLean*, move or push participants to outside of their 'comfort zone' in order to make progress.⁴⁸ Pushing athletes outside of their comfort zones is reasonable, routine and effective coaching practice in situations where athletes have demonstrated the necessary competence to cope safely with more advanced demands.⁴⁹ Nonetheless, and as revealed in Chapter 5, coaches must guard against the possibility of being overly optimistic or too blasé when ascertaining the ability and confidence of athletes to willingly meet the challenges posed. Such a failure by coaches may result in athletes and participants being exposed to an unacceptable risk of injury and, concomitantly, a breach of duty of care by coaches.

There is evidence to suggest that coaches develop some of their preliminary notions and conceptions of how to coach from experience as athletes.⁵⁰ Socialisation of coaches within respective sports is likely to shape perceptions of ethically correct approaches to coaching.⁵¹ However, relying on idiosyncratic, subjective and perhaps ill-considered judgements of acceptable practice, given the apparent lacuna in coach education and training focused on legal and ethical issues, appears problematic.⁵² Further, as pressures grow to optimise levels of performance, associated

45 Alexander et al. (n 12); Oliver and Lloyd (n 41) 163.

46 See, for instance, *Davenport v Farrow* [2010] EWHC 550. Discussed in Chapter 5.

47 See, for instance, *Brady v Sunderland Association Football Club Ltd*, 2 April 1998 (QBD). Discussed in Chapter 5.

48 *Anderson* (n 30) [54]; *Ahmed v MacLean* [2016] EWHC 2798 [84]. See further, Chapters 5 & 6.

49 Coaches will be better informed when determining if participants can cope safely with more demanding challenges by keeping written records of such things as training sessions delivered, schedules of training programmes, attendance registers, injuries sustained by participants, performance and fitness assessments, and depending on the level at which the coach is operating, medical screening test results and records of progression reviews/meetings. Other relevant records, as discussed later, include risk assessments. See further, J Barnes, *Sports and the Law in Canada* (3rd edn, Toronto, Butterworths 1996) and P Whitlam, *Case Law in Physical Education and School Sport* (Worcester, BAALPE 2005).

50 C Mallett, 'Becoming a High Performing Coach: Pathways and Communities' in Lyle and Cushion (n 22) 122. See further, C Cushion et al., 'Coach Education and Continuing Professional Development: Experience and Learning to Coach' (2003) 55 *Quest* 215; G Bloom et al., 'The Importance of Mentoring in the Development of Coaches and Athletes' (1998) 33 *International Journal of Sports Psychology* 410.

51 Telfer (n 22) 216.

52 *Ibid.* See, for instance, the analysis of *Davenport* (n 46) in Chapter 5.

tensions relating to legal and ethical considerations are amplified.⁵³ Broadly speaking, as the principles of coaching are constantly assessed and revised,⁵⁴ so too is the legal standard of care required of coaches.⁵⁵ This may prove precarious for talented and experienced coaches, perhaps even former professional athletes themselves, working in isolation or unreceptive to the latest developments in coaching and the constantly evolving legal context in which coaches discharge the duty of care incumbent upon them. The importance of this is heightened by the fact that practice ethics appears to be an undervalued aspect of the ‘craft’ of coaching and perhaps indicative of a somewhat ‘underdeveloped awareness, or understanding, of duties associated with professional practice’ by some coaches.⁵⁶ Significantly, and as argued by Duffy et al., addressing such complexities of coaching should become a priority, reinforcing the necessity for coach education, training and systematic continuing professional development (CPD) to more fully engage with legal/duty of care considerations.⁵⁷

***Bolam* ‘defence’**

The methods adopted by ordinarily competent professionals exercising specialist skill are underpinned by regular, approved and responsible practice. Since this common practice would be logically justifiable, should an athlete suffer personal injury whilst under the coach’s charge, customary practice, so defined, would provide a strong indication of reasonable coaching and instructing.⁵⁸ In such circumstances, coaches would be ideally positioned to engage the *Bolam* ‘defence’ discussed in Chapter 3. Put simply, providing the standards, skills and judgement of coaches are reasonable, there would be no breach of duty. In *MacIntyre*, the actions of the climbing leaders were to be:

judged by the standards of the reasonable climbing leader in such circumstances. It is not sufficient to show that a different decision might have been better. Rather the test is whether no reasonable climbing leader would have done what they did.⁵⁹

Consequently, the threshold of reasonable coaching should only be breached in circumstances where no other reasonable coach would have done what the defendant

53 Telfer (n 22) 217.

54 Cassidy et al. (n 2) 130–31; B Taylor and D Garratt, ‘The Professionalisation of Sports Coaching: Relations of Power, Resistance and Compliance’ (2010) 15(1) *Sport, Education and Society* 121, 124.

55 See generally, Powell and Stewart (n 33) [2–135].

56 Telfer (n 22) 211.

57 P Duffy et al., ‘Sport Coaching as a “Profession”’: Challenges and Future Directions’ (2011) 5(2) *International Journal of Coaching Science* 93, 104.

58 E.g., *Davenport* (n 46) [59]; *Morrow v Dungannon and South Tyrone BC* [2012] NIQB 50 [27]–[30].

59 *MacIntyre v Ministry of Defence* [2011] EWHC 1690 [70].

did. Also, given the courts' recognition of the discretionary professional judgement of expert practitioners, or *Woodbridge* principle endorsing decision-making 'within a reasonable range of options',⁶⁰ at first glance, satisfying this benchmark of the reasonably average coach does not appear particularly onerous. Indeed, as with cases of medical negligence pre-*Bolitho*,⁶¹ this creates the impression that providing a coach might be able to find an expert from the field to endorse her/his actions or omissions, a finding of breach of duty would be prevented. However, and perhaps unsurprisingly, this represents a dangerous oversimplification of the approach taken by the judiciary. Since the shift towards the professionalisation of sports coaching continues to be a work in progress, unlike evaluations of due care and skill exercised by medical practitioners, judges may not be so hesitant to declare a widespread practice employed by some coaches to be negligent.⁶² Furthermore, Chapter 6's case study of *Anderson v Lyotier* reveals the scope for a somewhat narrow application of the *Bolam* 'defence' in particular circumstances. Nonetheless, coaches employing approved practice (i.e., advocated by a responsible coaching organisation/NGB), which is logically justifiable for the requirements of the coaching post held (i.e., appropriate to the performance level in question), remain extremely well positioned to successfully exercise their duty of care since these propositions are the hallmarks of reasonable coaching practice.⁶³

Distinctions between formal qualifications and experience

Coaching is dependent upon volunteers. As such, it is largely unregulated and devoid of a commonality of occupational practice.⁶⁴ This is illustrated in the UK, for instance, by the fact that around 76 percent of coaches are volunteers, including some parents, with approximately half of the coaches in this jurisdiction not holding a coaching qualification.⁶⁵ Importantly, attainment of a formal coaching qualification, delivered by an approved body such as an NGB, is a strong indicator of necessary competence and specialist skill. This was reiterated when the Court of Appeal considered the level of qualification required and recognised by independent bodies for the teaching of the forward somersault in the leading authority for coach negligence, *Fowles v Bedfordshire County Council*.⁶⁶ Nonetheless, not all enquiries of the competency of coaches will be so clear-cut, there being a wide range of reasons

60 *Woodbridge School v Chittock* [2002] EWCA Civ 915 [27]. Discussed in Chapters 2, 3 & 5–6.

61 *Bolitho v City of Hackney Health Authority* [1998] AC 232 (HL). See further, Chapter 3.

62 See generally, Jones and Dugdale (n 24) [10–03].

63 For instance, the *Bolam* test was essentially successfully satisfied in: *Davenport* (n 46); *Morrow* (n 58) and *Woodbridge School* (n 60). In the context of school sport, also see *Wright v Cheshire CC* [1952] 2 ALL ER 789.

64 A Lynn and J Lyle, 'Coaching Workforce Development' in Lyle and Cushion (n 22) 205.

65 Sports Coach UK, *Coach Tracking Study: A Four-Year Study of Coaching in the UK* (Leeds, Coachwise 2012) 17.

66 *Fowles v Bedfordshire CC* [1995] PIQR P380 (CA). Discussed in detail in Chapter 5.

why experienced and highly proficient coaches may not always become formally accredited at all or, alternatively, at a level reflective of their expertise. Conversely, the typically unregulated nature of the coaching ‘profession’ appears somewhat deficient in preventing coaches, perhaps with only entry level type qualifications, from operating at levels beyond their level of recognised competence and therefore lacking the specialist skill needed to effectively discharge their duty of care. In the unfortunate circumstances whereby an athlete may suffer serious personal injury, and legitimately seek redress through the courts, determining the relevance of the coach’s qualifications and previous experience, and the possible existence of a skills gap, requires careful scrutiny of the full factual circumstances of the individual case. Although judges will often be equipped with the opinions of experts in the relevant field regarding what constitutes reasonably safe practice,⁶⁷ the lack of formal accreditation of coaches poses a difficult challenge for courts, often compounded by the specificity of sport. However, despite coaching being regarded as a ‘new’ profession, in applying the principles of professional liability to claims of coach negligence, as with architects, solicitors and doctors, a coach should not be viewed as incompetent just because the judge fancied ‘playing’ coach.⁶⁸ As with the more traditional learned professions, judges lack the required expertise to appropriately define proper coaching practice, a particularly pertinent issue in the absence of formal accreditation.

On this point, and as highlighted in Chapter 4, the Court of Appeal in *Smoldon v Whitworth* was faced with conflicting arguments about whether the required competence of a rugby union referee should be determined by the qualification held or the level of sporting performance at which the special skill was being employed. In delivering the court’s judgment, the Lord Chief Justice disregarded the case as being an instance of a possible skills gap.⁶⁹ The qualification held by the referee was entirely commensurate with the level of match he was officiating. The Court of Appeal expressed the view that the level of skill required in the circumstances should be determined by the function a referee was performing and not by her/his grade.⁷⁰ Following *Wilsher v Essex Area Health Authority*,⁷¹ this reasoning seems correct.⁷² Applying this formulation in a coaching context enables account to be taken of both formal qualifications and, importantly, the level of performance at which the specialist skill is employed, when ascertaining whether coaches are

67 M Brazier and J Miola, ‘Bye-Bye Bolam: A Medical Litigation Revolution?’ (2000) 8(1) *Med Law Rev* 85, 87. See further, Chapter 5.

68 *Ibid.*

69 *Smoldon v Whitworth* [1997] PIQR P133 (CA), P139. See further, Chapter 4. The implications of a possible skills gap of coaches are discussed further later.

70 This same reasoning was recently adopted by Judge Lopez in *Bartlett v English Cricket Board Association of Cricket Officials*, County Court (Birmingham), 27 August 2015.

71 *Wilsher v Essex AHA* [1987] QB 730 (CA). See further, Chapters 2 & 3.

72 See further, N Partington, ‘“It’s Just Not Cricket”. Or Is It? *Bartlett v English Cricket Board Association of Cricket Officials*’ (2016) 32(1) *Professional Negligence* 75, 79.

sufficiently competent.⁷³ The diverse composition of the coaching ‘workforce’, and lack of commonality of occupational practice, also endorses this approach. Furthermore, volunteers may not always be in a position to fully engage with education and training opportunities,⁷⁴ with the balance between formal qualifications and practical experience in this area unlikely to resemble more established professions.⁷⁵ Baroness Tanni Grey-Thompson’s Duty of Care in Sport Report recognised that more needs to be done to ensure coaches have the appropriate qualifications and called for the consideration of a national coach licensing scheme, with the creation of a register of licensed coaches.⁷⁶ This book’s analysis of the duty of care required of coaches strongly endorses this view.

Since parents often volunteer to become involved in sport to support the active involvement of their children, it is forcefully (though not without being mindful of the potential wider repercussions) submitted that they, and indeed all volunteer coaches, should only be prepared to coach should they possess the skill of the ordinarily competent coach for that particular level. In protecting the legitimate safety and welfare interests of both athletes and volunteer coaches, this stance is absolutely consistent with the legal expectations and obligations revealed by this book’s analysis of a coach’s duty of care. Subjectively speaking, there will no doubt be highly committed and enthusiastic volunteers prepared to step in at a moment’s notice in order to unselfishly prevent cancellation of matches and practice sessions. Despite such altruistic actions, in objectively determining if the standard of care and skill has fallen below that expected in the particular circumstances, it appears that courts may place limited weight on the positive intentions of highly committed volunteers.⁷⁷ In short, it is imperative that all coaches are fully aware of their limitations and only operate at levels entirely commensurate with their expertise and competence.

Although formal qualification and accreditation remains the ideal indicator of requisite skill, *Wilkin-Shaw v Fuller*⁷⁸ provides an instructive illustration of the approach taken by courts when competence is not readily demonstrable by means of formal qualifications. The first defendant teacher in the tragic case of *Wilkin-Shaw* was responsible for the training of pupils for the Ten Tors Expedition on Dartmoor. Since the Kingsley School Bideford Trustee Co. Ltd, as employer,

73 In *Davenport* (n 46) [59], for instance, the court took account of the athlete’s ability and aspirations and the fact that ‘DF’ was a level 4 coach (the highest athletics award available at the time of the alleged breach of duty in 2004).

74 H Campbell, ‘Work with Us’, Presentation by Scottish Council for Voluntary Organisations (1999) cited in M Graham and M Foley (eds), *Volunteering in Leisure: Marginal or Inclusive?* (Eastbourne, LSA 2001) 50.

75 Duffy et al. (n 57) 110.

76 Baroness Tanni Grey-Thompson, ‘Duty of Care in Sport: Independent Report to Government’, Department for Digital, Culture, Media & Sport, 21 April 2017, 18, 20, & 32.

77 E.g., *Scout Association v Barnes* [2010] EWCA Civ 1476.

78 *Wilkin-Shaw v Fuller* [2012] EWHC 1777. Also see, *MacIntyre* (n 59).

would have been vicariously liable for the negligent acts or omissions on the part of the first defendant, Owen J determined that:

[T]he school was under a duty to ensure that the first defendant was competent to organise and to supervise the training, and that the team of adults assisting him in the training exercise had the appropriate level of experience and appropriate level of competence to discharge any role required of them.⁷⁹

Problematically, although the experts agreed that formal qualifications including, for instance, the Walking Group Leader Award, was reflective of the standard against which the defendants should be judged, the first defendant did not hold any formal qualifications relevant to such activities.⁸⁰ Significantly, whilst recognising that formal qualifications represent the easiest way to demonstrate competence, the High Court acknowledged that qualifications were not the only means to do so.⁸¹ The competence of the first defendant to act as a team leader was ultimately based on his experience and the measures taken to prepare the group for the Ten Tors.⁸² Consideration of all of the prevailing circumstances in negligence claims brought against coaches would likewise be expected to account for the experience levels of the defendant coach. This is consistent with Lord Bingham's observations in *Smoldon*, it clearly being feasible that highly competent and proficient coaches, though possessing experience commensurate to the coaching being conducted, may lack official qualifications relevant to this same level. Although this logical and common-sense approach by the judiciary should provide some reassurance to (suitably experienced) coaches, formal qualification remains the 'gold standard' in evidencing competence and every effort should be made to promote the formal accreditation of all coaches. Consequently, before a person can be referred to as a coach, every reasonable attempt should be made to ensure the achievement of appropriate minimum criteria, with the monitoring of such compliance, and removal of related barriers and obstacles, an important priority for NGBs and scUK (sports coach UK).⁸³

Risk assessment

The aim of effective risk assessment is to eliminate harm, not necessarily risk, by means of sensible and informed risk management. As such, in the context of sports coaching, a risk assessment is intended to promote the effective determination,

79 *Wilkin-Shaw* (n 78) [40].

80 *Ibid.* [56].

81 *Ibid.* [57].

82 *Ibid.* [59].

83 See generally, C Nash, 'Volunteering in Sports Coaching – A Tayside Study' in Graham and Foley (n 74) 54.

evaluation and management of reasonable risk. Detailed examination of recent case law reveals realistic judicial reasoning and expectations when establishing what might be regarded as suitable and sufficient assessment of risks in particular circumstances. For instance, as in *Blair-Ford v CRS Adventures Limited*, this included recognition that it may not always be necessary to complete a formal risk assessment for all activities,⁸⁴ since formal risk assessments are ‘a less effective tool where a lot of variables may come into play’.⁸⁵ This concurs with Spencer J’s ruling in *MacIntyre*, which was discussed in Chapter 5.⁸⁶ Suitable and sufficient assessment of risk is a process and not a document. However, an informed and well-considered formal risk assessment provides a critical and robust foundation from which a proper and continuous reassessment of risk can be effected.⁸⁷ Indeed, a flawed initial formal risk assessment somewhat negates the identification of what might be regarded as acceptable risk in the prevailing circumstances, since the necessary balancing exercise (i.e., a risk-benefit assessment) is compromised.⁸⁸ Put bluntly, should an initial formal risk assessment be inadequate, there may not be ‘a subsequent opportunity for a proper dynamic risk assessment to inform and improve upon the earlier risk assessment’.⁸⁹ This is a serious potential pitfall which coaches must guard against when discharging their duty of care.

Evidence of intelligent and well-informed reasoning, or lack thereof, would appear to be the pivotal issue when coaches seek to identify acceptable risk.⁹⁰ The clear expectation that coaches should employ a ‘thoughtful appraisal of risk’ when completing risk assessments,⁹¹ speaks to the requirement of the approach adopted being justifiable and therefore capable of withstanding logical scrutiny.⁹² In short, whenever possible, coaches should adopt regular and approved approaches to risk

84 E.g., in *Blair-Ford v CRS Adventures Limited* [2012] EWHC 2360 [62], Globe J held that ‘although there was a formal risk assessment of the Mini-Olympics as a whole, there was no formal risk assessment and no advance plan as to the method of handicapping for the teachers before the welly-wanging event was about to begin. That, though, is not decisive’. Also see *Wilkin-Shaw* (n 78) [70]; *Risk v Rose Bruford College* [2013] EWHC 3869 [53]; *Uren v Corporate Leisure (UK) Limited* [2013] EWHC 353 [181].

85 *Uren v Corporate Leisure (UK) Ltd* [2011] EWCA Civ 66 [42] (Smith LJ). Also see *Blair-Ford* (n 84) [62].

86 *MacIntyre* (n 59) [120].

87 *Ibid.* [82], [92].

88 Jones and Dugdale (n 24) [8–145]. Recognition of such potentially erroneous reasoning in *Uren v Corporate Leisure (UK) Limited* [2010] EWHC 46 provided sufficient grounds for a successful appeal. As noted by Jones and Dugdale, ‘[i]f the risk assessment was flawed that threw into question whether the appropriate balance between the degree of risk and the social value of the game had been reached’. Curiously, attaching too much/little weight to the social desirability of activities would appear to have a similar impact. See, for instance, *Scout Association* (n 77).

89 *Uren* (n 84) [165].

90 *Uren* (n 85) [45].

91 *Ibid.* [44].

92 As explained by Lord Browne-Wilkinson in *Bolitho* (n 61) 242, ‘in forming their views, the experts have directed their minds to the question of comparative risks and benefits and have reached a defensible conclusion on the matter’.

management that they have thought carefully about. This assertion is endorsed by the emerging jurisprudence in this area.⁹³ Clearly, adequate risk assessment extends far beyond a purely back-covering, evidence generating, tick-box type paper exercise. This reinforces the importance of a proactive approach to effective risk management by coaches since it should not be necessary to await a sufficiently substantial or significant incident before the likelihood of its occurrence is envisaged.⁹⁴ Curiously, in *Cox v Dundee City Council*,⁹⁵ although Lady Scott did not find the defendant coach educator at all reliable or credible, his vagueness about when he received risk assessment training, or where and exactly how he carried out his risk assessment on the day of the incident,⁹⁶ may be insightful in revealing the somewhat diminished importance that might on occasion be afforded to risk assessments by some coaches. In view of the duty of a coach to adequately assess risk, this possible absence of reflective and thoughtful practice appears to signify some cause for concern.

Best practice in assessing risk clearly warrants completion of a formal risk assessment before amending regular and approved practice, or adopting innovative training methods, with accompanying dynamic assessment of risks also necessary. Coaches make frequent and extensive use of corrective and instructive concurrent feedback to enhance learning and performance. By honing highly proficient skills of observational analysis, this process simultaneously facilitates the opportunity for a continuous assessment of risk. Generally speaking, this is routine practice and enables appropriate intervention by coaches in a timely and effective manner to ensure that athletes are not exposed to unacceptable or unreasonable risk. This approach is one of the hallmarks of dynamic risk assessment. In this context and, as noted in *Blair-Ford v CRS Adventures Limited*, ‘spur of the moment’ decisions may be necessary due to factors including the weather and the individual needs of participants.⁹⁷ Nonetheless, the careful forethought evidenced in a suitable and sufficient written risk assessment should minimise the need for spur of the moment decisions. Moreover, the suitability and sufficiency of dynamic risk assessments is more likely to be acceptable when coaches have been trained to use their knowledge, experience, initiative and common sense when continuously assessing risk.⁹⁸

93 As revealed in Chapter 5. See, for instance, *Macintyre* (n 59) [79], [120], [122]. Also see, *Blair-Ford* (n 84) [61], [62], [65].

94 *Uren* (n 84) [179].

95 *Cox v Dundee CC* [2014] CSOH 3. See further, Chapter 5.

96 *Ibid.* [19], [26].

97 *Blair-Ford* (n 84) [27].

98 *Ibid.* Also see *Uren* (n 88) [52], Field J highlighting that Professor Ball, an expert witness, explained that when he assesses the risks of an activity he extrapolates from his technical knowledge, experience of life and comparable activities. Similar such intelligent and informed reasoning is no doubt frequently employed by coaches, teachers and instructors.

Coach education, training and development

Somewhat reassuringly, it has been suggested that greater emphasis is now being placed on the duty of care required by law during coach education courses.⁹⁹ Notwithstanding such progressive developments, questions remain over the value of introductory coaching qualifications, often of between four and six hours duration, with successful certification frequently dependent only on attendance.¹⁰⁰ This general tendency to deliver coach education training programmes over short periods of time results in coaching certificates representing the minimum level of expertise at a specific level.¹⁰¹ Additionally, in order to stay up-to-date, there are demands placed on coaches to avail of learning opportunities since the science of coaching continues to expand.¹⁰² These factors appear probable obstacles to the achievement and maintenance of a level of specialist skill reflective of the ordinarily competent coach and necessary for adequate fulfilment of the duty of care required of coaches. In further elaborating on some of these very considerable limitations of coach education, training and accreditation, Telfer has stated the following:

Dealing with performers who are on the whole young and impressionable and led by coaches whose education and training may be limited to a mere handful of hours over a few weekends demonstrates a clear need for greater investment in the way in which sport seeks to develop expertise in their coaches. Expertise takes time to develop and there is certainly an argument that novice coaches should be made more aware of the limitations of coaching individuals or teams armed only with the most basic coaching level award. Although governing bodies of sport generally try to emphasise that an early coaching role should be that of supporting more qualified coaches, this is poorly regulated.¹⁰³

These observations speak to legitimate safeguarding interests of both athletes, often young and impressionable, and coaches, whose expertise must be commensurate to the level of coaching being delivered. Coaches must have an awareness and appreciation of their own limitations and developmental needs and priorities. Importantly, there is evidence to indicate that volunteers are less prepared to commit themselves to CPD opportunities than those in employment.¹⁰⁴ Furthermore, whilst it has been recognised that required attendance at training courses may boost the confidence of some volunteers, 'this was countered by the belief that

⁹⁹ Telfer (n 22) 210.

¹⁰⁰ Nash (n 83).

¹⁰¹ P Trudel et al., 'Coach Education and Effectiveness' in Lyle and Cushion (n 22) 149.

¹⁰² Ibid.

¹⁰³ Telfer (n 22) 211.

¹⁰⁴ Campbell (n 74).

the additional burden in terms of time and cost would deter others'.¹⁰⁵ Research conducted with 19 Scottish governing bodies of sport revealed some widespread concern of a possible skills gap, whereby coaches discharge a function beyond that for which they are qualified.¹⁰⁶ This concern is reiterated by Lyle and Cushion, who are also mindful of situations where coaches may operate in circumstances for which they do not possess the appropriate qualifications or experience.¹⁰⁷ Certainly, and as argued by Nash, unqualified coaches working unsupervised with children represents a substantive ethical (and legal) issue.¹⁰⁸

Intuitively, although the altruistic motives of volunteer coaches may encourage a reluctance to politely refuse requests to coach in contexts extending beyond the coach's level of expertise or competence, this must be resisted. Put bluntly, the duty of care derived from the law of negligence is premised on objective reasonableness. By analogy, and although relating to the contributory negligence of an adult skier,¹⁰⁹ it appears plain that '[t]he human reaction not to want to appear awkward, difficult or . . . "faint-hearted" is quite understandable from a subjective viewpoint, but objective analysis does suggest that serious concerns must be ventilated'.¹¹⁰ Correspondingly, should coaches have concerns about a possible skills gap, this represents a serious issue that must be ventilated, since objective analysis of a coach's duty of care demands that when coaches assume a particular coaching task there is a duty of care to discharge it properly.

National governing bodies of sport

Curiously, it seems that NGBs may often assume that coaching codes of conduct enable coaches to sufficiently resolve many of the associated issues and tensions, with regard to the effective discharge of their duty of care, discussed earlier. In essence, when attempting to address many of the ethical (and potentially legal) dilemmas encountered by coaches, there would appear to be an unexamined and superficial reliance by NGBs and coaching organisations on codes of conduct.¹¹¹ Since the assumption seems to be that ethical considerations regarding coaching practice will be understood and grasped intuitively by coaches,¹¹² the extent to which codes

105 R. Groom et al., 'Volunteering Insight: Report for Sport England' (Manchester Metropolitan University 2014) 58.

106 Lynn and Lyle (n 64) 199.

107 J. Lyle and C. Cushion, 'Narrowing the Field: Some Key Questions About Sports Coaching' in Lyle and Cushion (n 22) 247.

108 Nash (n 83) 44.

109 *Anderson* (n 30).

110 *Ibid.* [142].

111 A. Hardman and C. Jones, 'Ethics For Coaches' in Jones and Kingston (n 7) 126. See further, M. McNamee, 'Celebrating Trust: Virtues and Rules in the Ethical Conduct of Sports Coaches' in M. McNamee and S. Parry (eds), *Ethics & Sport* (London, E & FN Spon 1998) 165.

112 Telfer (n 22) 210–11.

of conduct impact and shape coaching behaviour appears open to conjecture and debate.¹¹³ Developing in coaches a greater knowledge and understanding of the emerging interface between sports coaching and the law of negligence represents a significant opportunity to address this potential void, given the qualified overlap between legal and ethical obligations.¹¹⁴ Indeed, an unexamined and superficial reliance on coaching codes of conduct fails to sufficiently account for the evolving legal context in which coaches discharge the duties incumbent upon them. Since an aim of relevant and engaging coach education courses should be to assist coaches in constructing (context-specific) knowledge rather than merely receiving it,¹¹⁵ instructive scenarios derived from the relevant case law examined in previous chapters should be designed to stimulate critical reflection on pertinent legal (and ethical) issues. In transcending some of the present limitations of codes of conduct, such action would more effectively guide and support coaches in defining their duty of care by providing an awareness and understanding of the dynamic relationship between sport, coaching and the law. Significantly, this would also provide real-world illustrations of what constitutes (un)reasonable coaching practice.

Conclusion

This chapter's analysis highlights important implications for practitioners exercising the specialised 'art' of coaching. Most notably, established jurisprudence confirms that coaches would be judged according to the benchmark of the ordinarily competent/reasonably average coach when exercising their duty of care. This is regardless of coaches being categorised as amateur, professional, qualified and/or (in)experienced. Further, as a 'new' and emerging profession, rigorous and searching judicial scrutiny of what might amount to proper or approved practice, or *Bolam* 'defence', emphasises the requirement for coaches to adopt universal good practice whenever possible. Moreover, practices employed by coaches must always be responsible and robustly justifiable. Simply applied, when discharging their duty of care, the hallmarks of reasonable coaching are (i) regular and approved coaching practices; that are (ii) logically justifiable; and (iii) suitable for the post or position of the coach. When critically evaluating and reflecting upon their own coaching practice, successfully satisfying these three legal propositions, or tests, should ensure that coaches adequately discharge their duty of care and skill. In short, coaches

113 B Taylor and D Garratt, 'The Professionalization of Sports Coaching: Definitions, Challenges and Critique' in Lyle and Cushion (n 22) 109; T Cassidy, 'Exploring Ethics: Reflections of a University Coach Educator' in S Harvey and RL Light (eds), *Ethics in Youth Sport: Policy and Pedagogical Applications* (London, Routledge 2013) 153. Also see McNamee (n 111) 155.

114 M Mitten, 'The Coach and the Safety of Athletes: Ethical and Legal Issues' in R Simon (ed), *The Ethics of Coaching Sports: Moral, Social, and Legal Issues* (Colorado, Westview Press 2013) 216.

115 RL Jones, 'Toward a Sociology of Coaching' in RL Jones & KM Armour, *Sociology of Sport: Theory and Practice* (London, Pearson 2000) 34; C Nash, 'How Coaches Learn and Develop' in C Nash (ed), *Practical Sports Coaching* (Routledge 2015) 182.

with the developed self-awareness to continuously evaluate the appropriateness of their coaching methods and behaviour, and thereby successfully satisfy these propositions which are indicative of reasonable coaching, would be shielded from negligence liability.

Whether application of the ordinary principles of professional liability in the context of voluntary sports coaching is fair, just and reasonable, or whether this establishes unrealistic expectations,¹¹⁶ remains debatable.¹¹⁷ Nonetheless, the legal obligations of coaches, derived from the law of tort, reinforce the urgency of coach education and CPD affording considerably more importance to legal (and ethical) issues likely to be encountered by ordinary coaching practitioners. There is a pressing need for greater investment in the way in which sport seeks to develop expertise in coaches and, not least in view of the evolving legal context in which coaches discharge their duty of care. This must become a priority. In the same manner in which ‘the contemporary coach needs to be “professional” in terms of the acquisition of new forms of knowledge’,¹¹⁸ the contemporary coach must also be more fully aware and informed of the practical content of the duty of care they assume. Bespoke coach education resources, derived from the developing coach negligence case law, would provide the most authentic, engaging and accurate means of achieving this aim. Ultimately, it is hoped that this chapter’s suggested implications for coaching practice will be of considerable practical relevance and engender further debate concerning the legal duty of care of modern sports coaches. In addition to emphasising the safety and welfare of athletes, the coach education and training provision argued for should enable a coach’s acts or omissions to be more capable of withstanding robust and searching judicial scrutiny in any future claims brought against coaches for a breach of duty of care.

116 See generally, G Nichols and P Taylor, ‘The Balance of Benefit and Burden? The Impact of Child Protection Legislation on Volunteers in Scottish Sports Clubs’ (2010) 10(1) *European Sport Management Quarterly* 31, 46.

117 See, for instance, N Partington, ‘Beyond the “Tomlinson Trap”’: Analysing the Effectiveness of Section 1 of the Compensation Act 2006’ (2016) 37(1) *Liverpool L Rev* 33.

118 Taylor and Garratt (n 54).