

February 2015

TO: BC SOCCER MEMBERSHIP AND PARTICIPANTS

RE: PAID SOCCER COACHES

BC Soccer as the body responsible for promoting the game of soccer in the Province provides guidance on issues common amongst our membership. One such issue is the practice of members hiring and paying coaches. We have set out below a summary of the position of BC Soccer on the matter of paid coaches, and an outline of the issues to be considered by members when hiring paid coaches.

1. GUIDANCE FOR HIRING OF PAID COACHES

We recognize that the strength of amateur soccer is the volunteers who work to ensure the success of our member organizations in the Province. We also recognize that some members are hiring paid coaches. In these circumstances, it is important to ensure first, that the proper process has been followed for deciding to hire a paid coach and, second, that the hiring of the coach is carried out in a proper manner.

(a) Procedure for Obtaining Hiring Approval

Depending upon the specific situation, the hiring of a paid coach may be a decision of the district, league or club. The appropriate decision making authority within the member organization (i.e., the board of directors or executive) will have to be determined by each member in accordance with its specific policies and bylaws.

It will be important for each district, league or club to have a policy properly communicated to its constituents regarding the hiring of coaches. The policy should make clear: whether hiring is allowed; the necessary approval required; responsibility for payment; and, guidance for the hiring process. The decision to hire paid coaches would normally be made at the club level as the club will have ultimate responsibility for the training and development of players. We have provided our guidance below assuming the club will be hiring the coach.

In deciding to hire a paid coach, it will be important that the club making the decision to proceed with hiring ensure that there is no conflict of interest in the decision making process. In particular, the club must ensure that any executive or board member excuses themselves from discussion and voting on the decision to hire a paid coach where the executive or board member has a financial interest in the contract. A financial interest may arise either directly as a paid coach or indirectly as a family member or owner of a soccer academy supplying the coach. A further protection would be to provide that the coach not be a voting member of the district, league or club.

(b) Hiring Process

The hiring of a coach by a club will involve the entering into of a contractual relationship with the coach. As such, it is important that the legal requirements for a contract be adhered to including: identifying the parties to the contract; setting out the terms of the contract; and, putting the contract in writing.

We have set out below the type of relationship which should be entered into with the coach and an example of the specific terms of a contract to be covered.

(i) Relationship

It will be necessary to determine who is hiring the coach. This may be a district, league or club. The contract should be between the coach and the club (where it is a legal entity), or the legal entity hiring the coach.

The relationship may either be one of employment or that of an independent contractor. Several factors are considered in making this determination including: the extent of control over delivery of the services; who supplies the equipment and facilities; the degree of involvement with the organization; and, whether there is a chance of profit or risk of loss.

An employment relationship is recognized as one where the individual is integrated into the organization, or is controlled and directed by the organization. A coach who works almost exclusively for the district, league or club will normally be an employee. A coach who provides services to other organizations may also be an employee where the services are controlled and directed by the club.

Where a coach is treated as an employee, then appropriate payroll taxes (income tax, CPP, EI, WorkSafeBC) must be deducted and remitted, along with making all required registrations and filings.

Where a coach is hired to provide services as an independent contractor, then other considerations will arise. The obligation to pay goods and services tax with respect to any payments to the coach must be considered. The club will also want to ensure the existence of workers compensation or similar insurance covering the independent contractor and any staff employed by the contractor in providing the coaching services. The risk of paying an individual as an independent contractor where they are later found to be an employee would include potential liability for the failure to withhold and remit payroll taxes and worksafe remittances, the failure to comply with employment standards obligations, and any penalties and interest.

The club will also need to determine if the coach and any assistants used by the coach in providing the coaching services are covered under the club's insurance for general liability claims, or if the club requires the coach to have separate insurance coverage. Where the coach will employ others in providing the services, then the club will want to consider if the coach is an independent contractor, or whether the assistants are properly hired separately by the club.

BC Soccer has recently obtained insurance coverage for independent contractor coaches providing services to clubs/districts through the insurance policy put in place for BC Soccer through All Sport Insurance. For coverage to apply, clubs/districts contracting with coaches will want to ensure that the services these coaches provide to the club/district are sanctioned soccer activities covered under the policy. If services extend beyond sanctioned soccer activities, additional coverage will be necessary to cover potential claims arising from the services provided by the coach to

the club/district. Insurance coverage will be subject to the terms and limits of the policy.

Should an independent contractor coach have their own insurance coverage already in place and the club/district has been provided with a satisfactory certificate of insurance, the coach's coverage should respond to cover potential claims arising from the services provided by the coach to the club/district. It would not be expected for the BC Soccer coverage to replace valid coverage the independent contractor coach may already have in place.

As tort liability principles will apply, the club will need to provide for the proper supervision of the coach (and any assistants) to ensure no improper conduct for which the club may be held responsible. Criminal records checks are mandatory for all coaches and assistants working with minors as per BC Soccer Rules.

(ii) Terms of Agreement

The initial steps for hiring the coach will be to conduct due diligence including a review of qualifications, interview of the individual and checking references. It will be important for the club to have carefully determined the qualifications and character of the coach prior to hiring the individual to teach the players. Records of the due diligence carried out should be kept by the club in the event a future problem arises.

The terms of the employment or independent contractor relationship should be put into a formal written agreement and signed by the parties. The terms should include:

- A. **Term** - The term or period covered by the agreement. This may be the number of sessions to be conducted, the season involved or other time period. It is recommended that if coaches are hired for fixed terms, then express termination provisions be included as discussed below to avoid any ongoing or accrued liability.
- B. **Probation** - The contract may provide for an initial right to terminate when the services are not satisfactory, although the general right to terminate referred to below may be relied upon for this purpose.
- C. **Services** - The contract should also clearly set out the services to be provided. This may be set out in a separate schedule to the contract and describe the deliverables required of the coach, as well as the specific individuals who will provide the services where this is important to the club.
- D. **Payment** - The contract must also set out the payment to be made for the services. This may be set out in terms of the amount to be paid for each service or as a lump sum amount for the season depending upon the agreement.
- E. **Adherence to club policies** - It will also be important to ensure that the coach agrees to abide by the policies of the club including the district of which the club is a part, and the league(s) in which the club's

teams participate. As the coach will often be provided with personal information by the club, it will also be important that the players have generally consented to the information being provided to coaches whether as employees or outside contractors for teaching purposes and that outside coaches be referred to in any liability waiver signed by players.

- F. **Criminal records check** - Include obligation to obtain criminal records check for all coaches and staff as per BC Soccer Rules.

- A. **Termination** - Another key provision of any contract will be the rights of the parties to terminate the contract. For employees, express termination notice periods complying with the minimum statutory (employment standards) obligation are recommended for both fixed term (ie. sessions or season) and indefinite term contracts to clarify and limit termination costs. The use of express termination provisions is also recommended for independent contractors where implied termination notice obligations may also be found to exist to limit termination costs.

- B. **Insurance/Worksafe** - The club will need to register with WorksafeBC and ensure compliance with all workplace safety laws. Where the coach will be an independent contractor, then provision should be made for the coach to have WorksafeBC registration or for the coach to be covered under the club's registration with payment of appropriate assessments. Further, the coach will need to have liability insurance or be covered under the insurance made available through BC Soccer.

- C. **Other** - There will also be practical issues which should be dealt with within the contract or agreed to prior to events occurring such as reimbursement for out of pocket expenses, and providing for evaluation of the coach either during or following the contract period.

2. CONCLUSION

The decision to hire a paid coach should be authorized and made at the appropriate level within the organization, and properly documented in writing. There are various resources available for preparing a contract for use in hiring a coach. In the event that a club wants legal advice or assistance in drafting an agreement, the BC Soccer has established a relationship with the law firm of Alexander Holburn Beaudin + Lang LLP (www.ahbl.ca) who are available to provide assistance at a preferred rate to BC Soccer members. The contacts at Alexander Holburn Beaudin + Lang LLP are Bruno De Vita or Mike Watt who can be reached at 604-484-1700 and would be pleased to assist.