

A briefing for risk managers in local authorities and other public and voluntary agencies that manage play provision. This briefing argues for a balanced approach to play safety: one that ensures that overall goals and objectives are not compromised by excessive risk aversion.

Managing risk in play provision: A briefing for risk managers

The Health and Safety Executive (HSE) recognises the importance of play in children's lives and for their opportunities to learn about risk. HSE is pleased to commend the *Managing Risk in Play Provision: Implementation guide*. Its application of risk-benefit assessments is a sensible approach to the health and safety management of play provision.

Barry Baker, HM Principal Inspector, Health and Safety Executive

Introduction

There is growing awareness of the value of play provision that gives children and young people active, challenging play opportunities. Risk management professionals have a key role in supporting the delivery of play provision which provides risk and challenge. The approach promoted in this briefing allows risk managers to be confident that they are taking a reasonable position that manages the risks, and that also provides a sound defence if claims arise. This briefing is based on *Managing Risk in Play Provision: Implementation guide*, published in 2008 by the Department for Children, Schools and Families, the Department for Culture, Media and Sport and Play England. The guide has itself been formally endorsed by the Health and Safety Executive (HSE).

A balanced approach

Across many areas of public service, support is growing for a more balanced approach to risk. The HSE has supported this move, through its *Get a Life* and sensible risk management campaigns. The case for a balanced approach is especially strong in the context of children's play. When children play, minor accidents are common, due to the very nature of play and its role in child development. Hence, in playgrounds, accidents are likely to happen without the provider being to blame. Likewise, minor and easily healed injuries in play provision are not necessarily a problem. Indeed they are all but inevitable, especially in challenging, adventurous provision. This approach is more than justified on safety

grounds, in spite of the obvious risks, because these risks are outweighed by the benefits. Those responsible for play provision need to take a balanced approach: one that takes into account the benefits the provision offers as well as the risks. The starting point for decision-making should be an understanding of the benefits that the provision offers.

Play provision brings many benefits, not just to children and young people, but also to parents and communities. Aside from its intrinsic value in providing places for play, fun and socialising, good play provision promotes children's physical activity and health. It supports children's well-being and development through offering activities that stretch their abilities, foster their imagination and build their confidence and resilience, allowing them to learn how to evaluate and manage risk. Disabled children have an equal if not greater need for adventurous play opportunities, since they may be denied the freedom of choice enjoyed by their non-disabled peers.



Parents also benefit from the offer of free, accessible, welcoming spaces for children and families to enjoy. Local residents and the wider community welcome the fact that children and young people have places to go and things to do, enhancing community life and helping to reduce the potential for friction, conflict or anti-social behaviour.

Many children and young people actively seek adventurous, exciting play experiences with a degree of risk. Providing challenging facilities can help to reduce accidents overall, by offering such experiences in managed environments that are safe from traffic and other serious hazards.

There is growing recognition of the value of play provision and the benefits it brings. In 2008, the government launched the first national Play Strategy for England, which committed significant investment for the improvement of play provision for children and young people, in the wake of funding from the Big Lottery Fund. As part of this strategy, the government has introduced (from April 2009) a new national indicator for English local authorities which will ask children how satisfied they are with their local parks and play areas.

Almost all of these benefits can only be realised if providers accept that a degree of risk is inevitable. As with workplace safety, the goal is risk management, not risk elimination. However, in play provision the nature of the task changes, because here exposure to some risk is in itself a benefit.

Play provision does present risks, to children and adults through accidents and injuries, and also to providers through the risk of liability.

Accident statistics

Accidents involving equipment in public playgrounds result in around 21,000 Accident & Emergency attendances each year: about 1 visit for every 200 children of primary school age. Fewer than one in ten A&E attendances result in hospital admissions. Per hour of participation, accident rates for sports such as rugby and football are at least 10 times as high, and even racket sports like tennis and badminton have accident rates several times as high as for playing in play provision (based on A&E attendances). Fatalities are extremely rare. Around one child every three or four years dies from an accident involving equipment on public playgrounds.

(All statistics from Ball 2002)

However, playgrounds of all types are, by any measure, comparatively safe places and have been so for some years if not decades.

Moreover, local authority risk managers and insurers report that claims from playground injuries represent a very small proportion of their caseload, and there is no evidence of any dramatic increase in numbers in recent years.

Claims for playground injuries account for a tiny proportion of liability claims we deal with from local authorities - less than one per cent on average.

Martin Clemmit,
Zurich Municipal
Insurance



The legal context

The provider's governing body – the board, council, managing directors, committee or management committee – is ultimately responsible for managing risks. They are free to seek guidance from professionals, and in many cases would be strongly advised to do so. But the final say is theirs.

There is no specific legislation on play safety. The key legislation is the Health and Safety at Work etc Act 1974, and the Occupiers' Liability Acts 1957 and 1984. In practice, this legislation implies a level of care for providers that is captured in the notion of 'reasonableness'. The Management of Health and Safety at Work Regulations 1999 impose a legal duty on providers to carry out a 'suitable and sufficient assessment' of the risks associated with a site or activity, to document their assessments and to act accordingly.

Local authorities also have an overall responsibility to promote community well-being. This inevitably involves balancing a range of considerations, of which reducing adverse outcomes such as injuries is just one.

Industry standards and guidance

There are agreed Europe-wide industry standards for play equipment and other facilities (BSI 2006, 2007, 2008a and 2008b).

These should be given due consideration in the design and inspection of play provision. Compliance with these standards is not a legal requirement, although they are commonly taken into account in legal cases. Judgments about whether or not standards are adhered to in any particular case should be determined by a risk – benefit assessment.

Although standards are a guide, rather than required legal practice, some providers regard them as being, in effect, a single and absolute requirement. This confusion can lead providers to be excessively cautious about including non-standard elements or items such as rocks, trees or landscape features. It can also lead to disproportionate safety measures. For example, some providers have wrongly concluded that they needed to remove equipment that has been used for years with no problems, because of minor deviations such as fall heights a few centimetres above that specified in the standard, or because one element of the standard has been revised and the equipment is no longer compliant.

Alongside standards, other information and guidance is available, including guidance provided by industry, safety and consumer organisations, each with their own interests and value base. Just as with standards, such material is not a legal requirement, and should be considered where appropriate.

Balancing risks and benefits

Risk management in play provision essentially involves balancing risks and benefits in a strategic way. Hence it is vital for providers to have a clear, explicit policy framework for play provision that states overall service goals, that informs the approach to risk and safety, and that underpins the reasons for decisions. A play policy that makes explicit the need for challenging play opportunities, with an acceptable degree of risk, will help providers resist unjustified negligence claims (PLAYLINK 2006).

A policy framework provides the context for making risk–benefit assessments. Risk–benefit assessment brings together an informed analysis of both risks and benefits. *Managing Risk in Play Provision: Implementation guide* sets out a descriptive form of risk–benefit assessment that allows providers to state in writing all the relevant considerations behind a given judgement or procedure. The HSE, in endorsing the guide, recognises that such an assessment, properly conducted, is a suitable and sufficient form of risk assessment.

Case study: Wolverhampton City Council

Wolverhampton City Council's approach to risk is founded on the understanding that there is a balance to be struck between risk and benefit, and that it is the council's duty to make judgements that advance the general public good.

Wolverhampton City Council is predominantly self-insured in respect of its liability risks (it carries its own excess of £250,000). It is council policy to defend robustly any claim where it does not consider itself liable, and to settle claims quickly where it judges that it has been at fault. The majority of claims are handled internally. Generally the council's insurers are not involved in the decision-making process.

The council developed a corporate, cross-sector play policy with the involvement of members, health and safety officers, parks, planners and the play service. Exploring attitudes to, and understandings about, risk in play formed an integral part of the process. The council recognised that a play policy alone would not be sufficient to embed a culture change. Many of those involved in delivering play opportunities tended to 'go for safety', and the 'fear factor' – about potential claims, and parental or other complaints – led to defensive practice. As a result, the risk and insurance manager and the play officer are creating a learning programme on risk and play for all staff whose decisions have an impact on play provision.

Insurance

Insurance has an important role in the management of risk, because it provides a financial safety net for providers in the event of accidents or other losses. However, insurance is not intended to prevent accidents or losses, and should not be the driver of risk management or service delivery. Risk–benefit assessment should be discussed with insurers, to ensure an agreed approach and to assist both providers and insurers in containing the number of claims that are placed.

Conclusion

The lives of children have become much more restricted and controlled over the last 30 years or so. Hence, for many children today, playgrounds are amongst the few spaces that can offer interesting, challenging opportunities for play. There is also growing policy awareness that children want and need to have challenging play experiences that involve a degree of managed risk.

As already stated, improving play opportunities is a key government objective. It is recognised that this means exposing children to a degree of managed risk.

The challenge for providers is to let children take acceptable risks when they play, without putting them in undue danger of serious harm. There are benefits from risk–benefit assessment at all levels and for all those involved in play. Above all children and young people will gain from a happier childhood, with more opportunities for healthy growth and development into resilient, competent and confident adults.

Action points

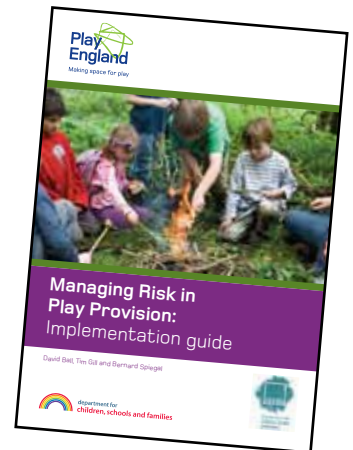
- It is essential to have a documented, corporate play policy that explicitly embraces and states the need for risk and challenge
- In developing a balanced approach, early dialogue between senior risk managers and lead officers for play is crucial.
- Key individuals and agencies involved in managing risk: including health and safety staff, insurance and risk managers and insurance providers - need to be engaged.

- The topic should also be discussed with elected members and members of governing bodies, to help them take a balanced and informed view.
- Obtain a copy of *Managing Risk in Play Provision: Implementation guide* for more information and guidance about implementing risk–benefit assessment.

Further information

Obtaining the guide

Managing Risk in Play Provision: Implementation guide is published by Play England with the government departments leading on play. It is available free to download from the Play England website.



www.playengland.org.uk/resources

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