

Inspection and Maintenance of Play Areas

Clarification Note by the authors of
Design for Play and Managing Risk in Play Provision

For further information contact:
Professor David Ball, 01603 665 422, david@osb.uk.net
Phil Doyle, 07734 837 323, phil-doyle@blueyonder.co.uk
Bernard Spiegal, 07871 589 426, info@playlink.org.

On 1 May the Association of Play Industries (API), a trade body that represents the interests of the equipment and surfacing industry, issued a statement on the inspection and maintenance of natural play areas.

As the authors of [Design for play: a guide to creating successful play spaces](#) and [Managing risk in play provision – an implementation guide](#), we believe the API statement is incorrect and inconsistent with the guidance published by Play England, the DCSF and DCMS and endorsed by the Health and Safety Executive.

Professor David Ball, Nicola Butler, Tim Gill, Phil Doyle, Bernard Spiegal, Aileen Shackell

Summary

- Natural and conventional equipped play areas are all subject to the same legislation (including the Health and Safety at Work Act and The Occupiers' Liability Acts)
- There is a legal requirement to carry out a risk assessment and the Health and Safety Executive has endorsed the use of risk-benefit assessment for children's play provision
- Compliance with industry equipment standards is not necessarily the same as risk-benefit assessment (or risk assessment)
- Industry equipment standards (BS EN 1176 and 1177) are advisory, not mandatory, and should be used sensibly bearing in mind they are one reference point among others
- Industry equipment standards have limited relevance when assessing natural play features
- Assessors who conduct risk-benefit assessments need to know as much about the benefits of play provision as about the risks

- Risk-benefit assessments need to be conducted against a policy background. For example, what are the policy objectives of the provider in providing a play opportunity and what is their position on benefit and risk of play provision?
- The one-size-fits-all approach embodied in play equipment standards means that they will not accord with policy objectives in all circumstances

Clarification and Comments

The API's 'advice' on natural play spaces, inspection and maintenance is inaccurate and misleading. The following clarification is based on the government advice to local authorities set out in *Design for Play* and *Managing Risk in Play Provision*.

API Statement: *'Designers, regardless of what they design have a legal responsibility to provide inspection and maintenance information to their clients, under the Health and Safety at Work Act 1974.'*

Clarification: The Act provides a general duty for employers to provide information, instruction and training, but nothing as specific as this. The Construction (Design and Management) Regulations 2007, created under the Act, assign duties to designers (Regulation 11) as follows: the designer shall take all reasonable steps to provide with his design sufficient information about aspects of the design of the structure or its construction or maintenance as will adequately assist (a) clients; (b) other designers; and (c) contractors, to comply with their duties under these Regulations.

API Statement: *'The first misconception is that a natural play space is not covered by the same legislation as the more traditional play space and natural elements do not need to comply with standards.'*

Clarification: The legislation applies to 'premises' of all kinds and to visitors to them. All play areas need to comply with the Health and Safety at Work Act 1974, the Occupiers' Liability Acts (1957 and 1984), the Compensation Act (2006) and the Disability Discrimination Act.

The HSWA implicitly *requires* a risk assessment to be conducted and The Management of Health and Safety at Work Regulations 1999 make conducting a suitable and sufficient risk assessment an explicit requirement. Compliance with industry standards does not of itself constitute a risk assessment. Fixed equipment, whether it complies with industry standards or not, must be subject to a proper risk assessment that takes account of, for example, local conditions.

For play spaces with natural features, the requirement for a proper risk assessment is even more apparent. This is because natural features cannot sensibly be shoe-horned into a standard which is primarily about engineered structures. It is not the case that 'natural elements' need to comply with industry equipment standards. Trees, boulders, logs,

ponds, flower beds and other natural features cannot usefully be thought of in terms of the ‘standards’.

The UK health and safety legislative framework is far-sighted and helpful as it places on play providers a mandatory requirement to undertake a ‘suitable and sufficient’ risk assessment. The HSE has agreed that a ‘risk-benefit’ assessment, details of which are set out in *Managing Risk in Play Provision*, is an appropriate assessment for play spaces.

API Statement: *‘Natural play spaces are typically manufactured play spaces and as such suppliers and operators have obligations and requirements under the Health and Safety at Work Act, which is the umbrella for all other guidance and standards related information and however the designers want to define the space it is still subject to the same legislation, such is the breather [sic] of the act.’*

Clarification: It is misleading to suggest that ‘natural play spaces’ are ‘typically manufactured play spaces’. ‘Manufactured’ cannot reasonably be thought to encompass landscaping, fallen trees or boulders within a play area.

Play areas do fall within a range of legislation, but no legislation requires either that standards are adhered to, or that a tree becomes a ‘manufactured’ item once it is included as a playable feature. The content of standards should be noted by providers and followed if thought appropriate. Risk-benefit assessment is the best vehicle for making judgments about the suitability of play features, whether natural, or bespoke equipment, including the appropriateness of advice in standards.

API Statement: *‘Natural features such as boulders and logs placed into a play space must be included in the design risk assessment, and to produce a risk assessment on the feature in the play space competent designers will refer to the appropriate guidance, so with a log for example the designer needs a detailed understanding of the BS EN1176 and 1177 to carry out the risk assessment and maintenance schedule.’*

Clarification: BS EN 1176 and 1177 do not provide advice on risk assessment or risk-benefit assessment. Such advice can be found in *Managing risk in play provision*.

The API has made it a condition of membership that play equipment standards, BS EN 1176 and 1177, are adhered to. Other designers of play spaces and equipment not necessarily members of the API may also adhere to the standards. Some bespoke play equipment is made that does not aim to adhere to the EN standards. As the standards are non-mandatory this should cause no difficulty provided that a risk-benefit assessment has been undertaken. Were EN equipment standards applied to, say, trees or boulders, the consequences would be absurd.

API Statement: *‘In regards to inspection of a natural play area an inspector needs to have a wide knowledge of varying subjects and risk assessment in order to be competent to assess the site, as the environment they are now*

dealing with is not purely based upon the requirements of BS EN 1176 and cannot be inspected as such.'

Clarification: A crucial development included in *Managing Risk in Play Provision* is that anyone inspecting a play area, natural or otherwise, should know as much about benefits as about risk. They should also be aware of the policy context and objectives of the play provider. Knowledge of industry standards may well be of some assistance, but the standards do not take account of local policy objectives or the particular features of individual areas or sites.

Managing Risk in Play Provision also makes an important distinction between technical information – for example, can a platform take the weight of 'x' number of children – and value-based judgments that are central to risk-benefit assessment. *Managing Risk in Play Provision* specifies that the play provider should conduct the risk-benefit assessment and that this task should not generally be outsourced to third parties. Technical information is important, but forms only part of a wider risk-benefit assessment that takes account of the particular features, and local context, of each play area.

API Statement: *'Maintenance is one of the parts of the safe systems as required by the Health and Safety at Work etc Act 1974. The operator of the equipment not only has a duty to the user but also to the maintenance person who is inspecting it on behalf of the operator for the end user (visitor) to play on. The operator must therefore also ensure it is safe for the maintenance person to use during inspection. This can only be achieved through maintenance of the equipment. The frequency of the inspections is reliant upon its usage and the system that is put in place by the operator to ensure its ongoing safety'*

Clarification: There are potential conflicts in designing equipment for inspectors (adults) to inspect safely and users (mainly children and young people) to experience risk and enjoyment. Inspection and maintenance should not be allowed to detract from the overall policy objective of providing better play opportunities for children.

For more information on Designing for Play and Risk-Benefit Assessment, see [Design for play: a guide to creating successful play spaces](#) and [Managing risk in play provision – an implementation guide](#) published by Play England, DCSF and DCMS.

Professor David Ball
Nicola Butler
Tim Gill
Phil Doyle
Bernard Spiegall
Aileen Shackell
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