



MELTON PARISH COUNCIL

MPC(20)56

REOPENING OF THE PLAY AREA AND OTHER PLAY EQUIPMENT IN LIGHT OF COVID-19 GOVERNMENT GUIDANCE

Government has advised that outdoor play areas and gyms may re-open from 4 July 2020 and have issued [guidance](#)ⁱ. It states that owners and operators must work together to undertake a risk assessment to ensure that measures have been considered relating to Covid-19 and the re-opening of play areas following an extended period of closure. A risk assessment was carried out on 1 July 2020 (MPC(20)56.1) and a number of changes are recommended including:

- Remove 3 swings to encourage social distancing
- Signage encouraging social distancing, use of hand sanitiser, max number of users per equipment etc
- Close off climbing frame until further notice

The risk assessment applies to the current level of prevalence of Covid-19 in the community. Should this change the risk assessment will need to be revisited.

Advice has also been sought from an ESC Officer and we are awaiting signage suggestions from them. They are supportive of play parks reopening. We have also looked at [guidance from the Association of Play Areas](#)ⁱⁱ to inform our risk assessment and signage. A report prepared at the request of the [Play Safety Forum](#)ⁱⁱⁱ to summarise emerging evidence on the effects of play restrictions in terms of a) reducing the risk of COVID-19 transmission in the population and b) the detriments to children resulting from the restrictions states:

- Children benefit socially, emotionally, and physically from playing outside
- The evidence is that the risks posed by COVID-19 to children playing in outdoor spaces is very low

It should be noted that it is not feasible for Melton Parish Council to provide the following:

- Provision of Stewards/Attendants
- Arrange a booking system
- Relocate equipment for social distancing
- Clean equipment regularly
- Provide cleaning equipment
- Provide hand sanitiser/wipes
- Provide hand washing facilities
- Create entrance and exit system that could be monitored and enforced

It is suggested that Melton Parish Council will carry out the following prior to reopening:

1. Adjust and modify equipment as indicated in the risk assessment.
2. Carry out safety checks including the annual independent play inspection – due to be carried out on 15 July 2020
3. Arrange cleaning and repairs where necessary
4. Produce signage to include the following:

Scientific advice suggests that the COVID-19 virus can survive for up to several days on some hard surfaces. The risks are reduced when outdoors, where surfaces may be subject to UV light and/or rain. Whilst all possible practical measures have been put in place the user of this equipment does so at their own choice and risk. Users of this equipment are expected to exercise care and comply with the official Government guidance for protecting themselves and others from COVID-19 at all times.

- The maximum number of persons in the fenced off play area is 20 at a time
- Only 1 adult to accompany children in the play area
- Please adhere to number of users per piece of play equipment
- Please maintain at least 1m distance from other users
- Use of hand sanitiser gel or wipes is strongly encouraged when using the equipment
- When using equipment do not touch face
- Consumption of food and drink within play areas is not permitted
- Please use bins provided or take litter home

Insurance position

We have also sought advice from our insurers but to date have received no response. Generic advice that we have received from them is shown below:

Risk management of play areas and open spaces

Councils need to consistently demonstrate that open spaces and play areas are safe for use. We strongly recommend weekly visual checks of such facilities are carried out and are recorded in writing as part of the Council's records. The policy we arrange requires reasonable steps to be taken to prevent or protect against injury, illness, loss or damage arising. Provided such steps are in place and subject to all other policy terms and conditions being met the policy will respond should a claim arise and the Council/Organisation is found legally liable.

The insurers have not issued any specific guidance on managing the risk of COVID-19. Whilst a revised risk assessment should be undertaken to take into account COVID-19, for further advice or guidance we recommend that you contact the consultants who undertake the annual inspection of the play/outdoor gym equipment. Visit the Government portal or the Health and Safety Executive website.

We expect that playgrounds will be very heavily used, especially with the warm weather that we are currently experiencing and the eagerness of the public to start using them again, so it is vital that playgrounds are thoroughly inspected to ensure a satisfactory level of safety is in place. You also have a responsibility to remove any temporary barriers that may have been put up during lockdown which may also be hazardous. You may find the following article from the RPII a useful reference point for further guidance – please click here to read the article.

The inspection programme should be in line with your overall risk assessment. If lockdown, or social distancing has an impact on the facility, the risk assessment should reflect and be updated accordingly. All inspections should be written with a copy kept on your organisation's files. Councils need to consistently demonstrate that open spaces and play areas are safe for use. We strongly recommend weekly visual checks of such facilities are carried out and are recorded in writing as part of the Council's records.

Visual inspections are vital in order to consistently demonstrate that the site remains fit for purpose, with any fault and/or issue being reported to the clerk with immediacy.

The checks should be recorded in writing and kept on the Council's records. Reasons for regular recorded inspections include:

- o To help protect members of your community from injury due to faulty play equipment or defective land*
- o To assist insurers in defending an injury claim*
- o To ensure equipment and areas remain fit for use*
- o In addition if trees form part of the Council's responsibilities we strongly recommend an arborist report is carried out by a suitably qualified person. Any action points arising from the report should be attended to within the recommended timescales. Regular, routine visual checks should also be undertaken, especially after incidences of extreme weather.*

During 2019, we saw frequent claims reported for third party injury arising as a result of Council owned equipment/land that had fallen into disrepair or deteriorated over a prolonged period of time. Insurers took a consistent approach in these circumstances and accepted liability. This was based solely on the fact that no remedial or planned programme of maintenance could be evidenced. In the event of a claim being paid the Council may see their future premiums increase to reflect this.

For this reason, we recommend that Councils review their assets regularly to ensure that all deteriorating equipment/ land is recorded and a plan is in place to repair and/or manage the equipment/land effectively.

This note is not intended to give legal or financial advice, and, accordingly, it should not be relied upon for such. It should not be regarded as a comprehensive statement of the law and/or market practice in this area. In preparing this note we have relied on information sourced from third parties and we make no claims as to the completeness or accuracy of the information contained herein. It reflects our understanding as at 30.06.2020, but you will recognise that matters concerning COVID-19 are fast changing across the world. You should not act upon information in this bulletin nor determine not to act, without first seeking specific legal and/or specialist advice. Our advice to our clients is as an insurance broker and is provided subject to specific terms and conditions, the terms of which take precedence over any representations in this document. No third party to whom this is passed can rely on it. We and our officers, employees or agents shall not be responsible for any loss whatsoever arising from the recipient's reliance upon any information we provide herein and exclude liability for the content to fullest extent permitted by law. Should you require advice about your specific insurance arrangements or specific claim circumstances, please get in touch with your usual contact at Came & Company.

The current legal position is that the starting point for exercising the Council's duty of care lies in following the up to date guidance issued by the Government and public health

authorities, which the main part of this report reflects. However, undertaking a rigorous risk assessment does not reduce the Council's duty of care to users of the play equipment, and such duty is higher to children under 18 than to adults. Additionally, it is not possible in law to waive the duty of care by displaying a disclaimer notice, and in respect of death or personal injury such a disclaimer will be void (s2(1) Unfair contract terms Act 1977). Legal advice issued to Sport England is strongly that providers of play/sports facilities should discuss the position with insurers before a return to play takes place, and should clarify whether existing policies cover Covid-19 based claims and that cover will be provided providing that the appropriate Government guidance is followed.

Recommendations

Councillors are asked to **NOTE AND COMMENT** on this report and decide if they feel the recommended actions and insurance position are sufficient to allow the play park and equipment to reopen.

Pip Alder

Assistant Clerk to the Council

9 July 2020

ⁱ <https://www.gov.uk/government/publications/covid-19-guidance-for-managing-playgrounds-and-outdoor-gyms/covid-19-guidance-for-managing-playgrounds-and-outdoor-gyms>

ⁱⁱ <https://mcusercontent.com/369ddb6a5c77ca22fac8fc8bd/files/8988b67c-402e-4afd-b434-20b6707724d7/APIStatementFinal.01.pdf>

ⁱⁱⁱ <https://childrensplaypolicyforum.files.wordpress.com/2020/06/covid-and-childrens-play-psf-1.pdf>