



# Don't panic!

## A guide to risk in play

Common sense can and must inform judgements about what constitutes acceptable risk levels in play, says **Bernard Spiegol**.

'It became apparent early in the research that there was considerable confusion over the relevant UK policy and legislation. For example, many claimed that no touching practices [of children in a range of settings] were "because of the Children Act" ...Yet an examination of such legislation clearly showed

that it was the welfare of the child that was of paramount concern...In spite of this, once the legislation and *assumed* principles on which it is based are translated into standards and guidelines problems arise which are further exacerbated by interpretation during inspection processes.'

**T**hese are the opening words of chapter three of *Don't Touch! The educational story of a panic* by Heather Piper and Ian Stonach (Routledge 2008).

Their concern, shared massively by PLAYLINK, is that the welfare of children is being systematically undermined by policies and procedures notionally directed towards their benefit. The 'child protection' flag is hoisted— but in the false colours of adult protection.

But here's an odd thing: the paragraph quoted above suggests that standards, guidelines and inspections are part of the problem.

In practice, they not infrequently distance practice from its purported purpose. There is a strong argument

to say that it is too often the same for play provision.

PLAYLINK suspects it is the case to a depressing degree. The reasons why this might be the case are many and various, but this article focuses on one aspect: the loss of confidence in the value of common sense judgments. Flight from judgment and a concomitant over-reliance on technical, expert information as the basis for decision-making.

This displacement affects the decisions made about play provision to a significant degree, in particular decisions about what constitutes acceptable levels of risk.

### You hold the key

Making decisions about what constitutes a reasonable degree of risk within play provision is not that complex, and in general not beyond the competence of any number of adults who have undertaken the journey from birth to, well, now.



## I'm sorry, I'll read that again

Readers may need to revisit that last paragraph to check that they have correctly understood what it says. It might be thought to contradict current orthodoxies about, for example, experts and expertise. It may, on reflection, stimulate doubt. This is reasonable, for thus far a view has merely been asserted, not argued.

There are three strands of thinking that converge to lead to the conclusion that, to a significant extent, judgements about risk levels in play can be made by thoughtful, experienced, competent adults who care about children. In reaching that conclusion, fundamental questions about experts and expertise cannot be avoided. The three strands are: common sense judgment; technical information and expertise; the nature and sources of guidance.

### Strand one: valuing common sense

Common sense can be characterised as the web of values, understandings, assumptions, experience and observation-based knowledge that carries us from one day to the next.

It is a form of practical wisdom. Such sense massively informs our decisions in the most profound and sensitive areas of our lives, not least child-rearing practices that are at once individual decisions and the expression of the traditions and practices within particular cultures.

This perspective highlights the degree to which aspects of common sense are both culturally specific and universal. However, the point to be drawn out here is that there is no expert, and no form of expertise, capable of adjudicating between commonsense judgements that might not accord with each other. Nor can technical information alone aid us in key areas of decision-making, for example, determining what's good for children.

Take the example of tree climbing: In deciding whether or not children should in principle be allowed to climb trees, either side of the case is arguable. The decision will depend on the decision-maker's values, attitudes and understandings about children, trees, the utility of accidents, the environment and much else.

# "Making decisions about what constitutes a reasonable degree of risk within play provision is not that complex and, in general, not beyond the competence of any number of adults"

It is an illusion to think that data on children falling from trees, the tensile strength of branches at different stages of growth, or attitude surveys of parents and children will on its own shed any additional light on the matter.

What counts here is the way the evidence is viewed. The facts refer only to themselves; they contain no automatically generated instruction. This way of thinking leads naturally to strand two.

### Strand two: the technical 'facts of the matter' are distinct from value-based judgments about risk

Whether a walkway can take 'x' amount of weight (here equating to the weight of 'y' amount of children) is a piece of technical information that is susceptible to objective testing and/or calculation. The finding constitutes a technical fact of the matter.

Knowing how to test the tensile strength of a material is not generally part of common sense knowledge. Rather, it is common sense that directs one to turn to an expert when this sort of assessment needs to be made.

However, as drawn out under strand one, technical information is second-level information. It cannot alone produce a decision about what to do.

Note here that it is not unusual for courts to have to hear two or more expert opinions on a particular matter, and it is the court that must come to a judgment about which expert advice to accept, if any.

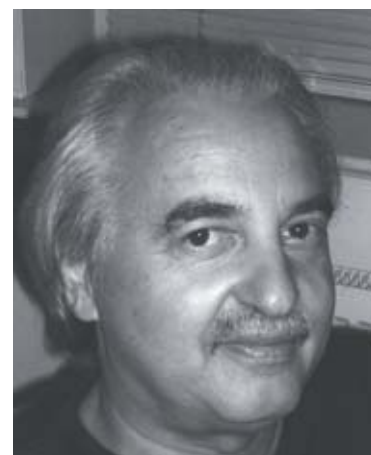
Play providers are in an analogous position to courts in their relation to expert opinion.

One of the reasons standards, guidelines and inspections are

currently part of the problem is that their utterances are treated as authoritative impositions, rather than the issue of, always contestable, values, understandings and interests.

### Strand three: there is no legislative impediment to creating wonderful and challenging play opportunities

In fact, understood correctly, the Health and Safety at Work Act, the Owners Occupier Act, and higher court judgments in negligence cases



Bernard Spiegall is Principal of PLAYLINK.

Bernard is particularly interested in the creation of spaces - temporal and physical - within which people of all ages can take control of their own time and activities. Hence his interest in play and culture as 'ways of life'.

A theme running through all Bernard's work is the need to understand and value risk: life is unutterably dull without it.  
[www.playlink.org.uk](http://www.playlink.org.uk)





Photos by Sue Gutteridge, PLAYLINK Associate.

“One of the reasons standards, guidelines and inspections are currently part of the problem is that their utterances are treated as authoritative impositions, rather than the issue of, always contestable, values, understandings and interests”

create a space within which creative possibility can be realised.

Within this broadly permissive legislative context, various organisations publish various forms of guidance on a range of subject areas in respect of play provision. For example on sand, water, fencing, inclusion and so forth.

In addition, there are organisations that both issue guidance and conduct inspections of play facilities.

All that needs to be noted here is a general point: all organisations and interests have their particular value base, their deep alliances and temporary, pragmatic couplings, their revenue requirements, their traditions and habits of thought and their over-arching objectives that may not accord with those of the play provider except in the most general terms.

The use of the highly elastic term ‘safe’ is to be treated with particular caution as is the pursuit of risk minimisation as a service objective

In fact, if those are your objectives as a play provider, it is likely that part of the point of your play provision has been mislaid, or perhaps overlaid with anxiety.

What follows from this is that the utterances and opinions of the various

guidance issuing bodies cannot be treated as Holy Writ, cannot be the ultimate determinant of what constitutes good play opportunities.

Timid and unthoughtful play providers will uncritically rely on experts, inspections and guidance. In so doing they are in breach of their legal and moral responsibility to make informed, though difficult, decisions about what constitutes public benefit. They also fail to value the vast reservoir of experience, knowledge of local conditions and common sense wisdom that is a play provider’s rich resource.

### Further reading

- Points made in this article along with others, were cogently and persuasively made at its recent ‘Risk it!’ conference. The conference report will be found at: [www.playlink.org.uk](http://www.playlink.org.uk)
- Give us a cuddle: child protection and adult anxiety [www.freeplaynetwork.org.uk/playlink/childprotection/index.html](http://www.freeplaynetwork.org.uk/playlink/childprotection/index.html)
- Counsel Opinion at [www.playlink.org/articles/?p=8](http://www.playlink.org/articles/?p=8) and HSE endorsed ‘Managing Risk in Play Provision: implementation guide’ published by Play England