Play provision inspections: flaws and errors.

*In this article **Bernard Spiegal** discusses the role, scope and authority of external play provision inspections. The article is one of a number of papers, comments, blogs, presentations and articles being generated by members of **The York Group.***

The York Group, comprising Professor David Ball, Tim Gill, Harry Harbottle, Bernard Spiegal, has come together to contribute to thinking about risk and play equipment Standards. The York Group will also be publishing jointly authored papers.

Responsibility for the views expressed in this article is the author's. The article does, however, introduce some key lines of argument for the group, to be explored further in both its individual and joint papers.

This article is also on Bernard's new blog at BernardSpiegal.com where comment will be welcome.

Introduction

In the first article in this series – *Play equipment standards: occasions of trespass* – I argued that industry play equipment standards have been allowed to expand into territory not properly theirs, with damaging effect. In making that case, I drew a distinction between what should be two distinct 'territories': one concerned with technical information and assessment – the legitimate purview of play equipment Standards; the other, the area where value-saturated judgments should hold sway, judgments to be made locally by the play provision provider.

In that article, I suggested that once the distinction was accepted there is a discussion to be had about where precisely the 'boundary' between the two territories should be drawn. But the very notion of boundary is predicated on acceptance that there is territory available to be demarcated. I suspect there is some way to go before this is widely accepted.

Finally, as should already be clear from this introduction, my position is not that playground equipment standards are unnecessary, but that they have been allowed to expand into areas beyond the scope of their competence. Similarly, my position is not that all playground inspections are useless and unnecessary, though many may be, but that it is the play provision provider that should determine whether an independent inspection is necessary, and if so, who should conduct the inspection; and it is they who should determine the criteria by which the provision is to be assessed. In addition, I argue that inspections have trespassed beyond the boundary within which they should properly remain.

The full *Play equipment standards: occasions of trespass* article can be found on my blog, bernardspiegal.com, where comment can be made, and at www.playlink.org.uk

Play equipment inspections

At the close of the first article I suggested that the current absence of a distinction between what is properly within the competence of industry equipment standards, and what it beyond their scope, is mirrored in the rationale and practice of play provision inspections. As a consequence, both must be open to question.

Errors in the structure and content of Standards are inevitably mirrored in the practice of play provision inspections. In particular, playground inspections tend to be inspections in relation to EN Standards. This is made clear in the two examples below drawn from different inspection companies' reports:

> *'Reference is made in this report to EN1176 (2008) which is the appropriate safety standard for the site and equipment. The requirements and recommendations set out in that standard are not mandatory but provide the best information upon which risk assessments should be based.'*
>
> *'The inspections are carried out to assess the ongoing safety, stability and operation following the relevant European (EN) or British (BS) Standard….All inspections are non-dismantling and do not include testing that requires specialist equipment e.g. structural and impact attenuation testing or the use of a ladder….A professional 5x5 risk assessment focusing on items of equipment is provided…to assist the operator in determining the level of hazard found'.*

The references to Standards, non-dismantling, risk assessment, hazards are typical of most inspection reports I have seen. Something needs to be said about each of those references.

Non-dismantling

There is perhaps some irony in the fact that it is in the very area where I hold that Standards are both useful and valid, those that address technical-cum-engineering considerations – for example, the integrity of equipment foundations, or the condition of swing cross-beams - are the very areas that are rarely inspected. The quote given above is typical: '*All inspections are non-dismantling and do not include testing that requires specialist equipment e.g. structural and impact attenuation testing or the use of a ladder'.* By way of an aside, given this caveat, it is not clear what level of assurance can be derived about the 'ongoing…stability and operation' of any equipment inspected. Yet the consequences of a failure in equipment foundations or by a cross-beam are of potential serious significance. But the report's qualifications make clear that these items are not routinely inspected. In the light of this, there are questions to be asked not only of 'routine' external inspections, but also about the utility of post-installation inspections.

Once the sort of features identified above are not included in the inspection regime, there is little left but to direct attention to areas that very often are of little inherent concern, or require no more than common sense judgments by the play provision provider.

By way of example, an inspection report designated as: *'medium risk… two planted elements [which are] provided within the area and contain sharp elements at eye level. If planting is needed within, then alternative plants are advised.'*

Quite how the inspector reached any conclusion about risk level is difficult to discern. Certainly the judgment made appears to be divorced from the fact that the area had been used intensively by children and indeed parents during the summer months with, so far as I'm aware, no incidents involving the 'planted elements'. In any event, as we shall see quite clearly in the example given below of Thornlie Primary school, the 'sharp elements' may have been purposely chosen as contributing to the wider objectives of the provision.

In another example, a piece of timber lying on the ground was described thus: *'Edges of timber not radiused'*. This was then designated 'low risk' but nevertheless was deemed to require being rounded off. One may wish to ponder on what basis the 'low risk' designation led to the need for

the proposed action; but whatever the basis it is difficult to see that anything other than a common sense judgment was required as to whether any action was needed and if so what - and this judgment should surely be within the competence of the play provision provider, the duty holder. In fact the 'rustic', 'natural' timbers were integral to the general design intent of the scheme. The effect of the inspector's advice was to make implicit policy decisions about the scheme on behalf of the provider - a matter quite beyond the inspector's remit.

The applicability of standards

If the current standard encompasses stipulations beyond its competence, then, because inspections are so closely aligned to standards, inspections will simply and necessarily replicate the error. This has been most sharply appreciated by those attempting to create more natural play environments, whether in designated play areas or as 'playable space.' Here we find that boulders and fallen trees, for example, become subject to inspection against play equipment standards, with no room for judgement as to their relevance or applicability in more naturalistic contexts.

Yet the 'natural' world, even when contrived by the human hand, is essentially knobbly and irregular and not susceptible to standardisation. Subservience to equipment-based inspection leads to inspection regimes effectively scuppering play providers' service objectives so far as creating more natural play settings is concerned.

An example will help draw out the distinction between a standards approach, and one predicated on the need and legitimacy of making judgments in relation to values. It is not unknown – including in my own experience - for inspectors to insist on categorising a fallen tree as unacceptably slippery, in other words, a hazard to be mitigated (an assessment made in total disregard to the potential benefits that slipperiness may entail). This has led to the absurdity of it being proposed that, for example, measures should be taken to counter the potential slipperiness. No matter that the play provision provider – the duty holder – has as one of its objectives encouraging children to understand and enjoy 'nature', its real-life, real-time features, and the risks and benefits that engagement necessarily entails.

Contrast this approach with that shared with delegates at the Risk It! conference[1] held recently in Islington, London. It concerns Thornlie Primary School in Scotland who's Headteacher has said:

'You're not running a playground right if no one ever gets hurt'

Thornlie Primary school is involved in a project to use more loose parts in their playground within the wider context of developing a more natural outdoor environment. They were confronted with the question: what to do about the inherent slipperiness of a tree, especially when wet from the rain? They used a risk-benefit approach – a process that is predicated on the need to make value-based judgments - to reach a decision.

> *'[there was] a discussion about whether the surface of the tree should be roughened up in some way to make it less slippery when wet.*
>
> *'The school decided not to take this approach, believing instead that it is important for children to learn about the need to behave differently in response to different weather conditions. In this case, some accidents on the tree could be seen as a useful learning experience.'*

[1] A joint PLAYLINK, Islington Play Association, LB Islington conference

It will be seen that the judgment made here makes sense only in relation to the specific features of the value-system informing the decision-making process. The intrusion of a play inspection, governed by the rule book and measure of play equipment standards is, at one level, an occasion of trespass, and on the other, a form of absurdity, a category error not dissimilar to an attempt to judge fish by the criteria applicable to poultry.

Risk assessment and standards

The practice of yoking what purport to be risk assessment judgments to compliance or non-compliance with equipment or surface standards compounds the sort of errors identified here.

Put to one side for a moment that some inspections 'fail' equipment or surfaces for what common sense would judge to be but minor deviations from the standard, though this alone is a cause for concern. The wider question to be addressed is: what is the relationship between equipment standards and risk assessment and management? Does a deviation from the standard automatically move that equipment or surface towards creating an unacceptable level of risk?

The answer is that it does not. And the reason for this is that there is no necessary relationship between equipment and surface standards, and judgements about what might constitute an acceptable level of risk. By way of example, it does not automatically follow that a fall height of over three metres represents in practice a heightened level of risk, still less that it could be deemed to constitute an unacceptable level of risk. Standards are not a proxy for risk (benefit) assessment, or for risk management[2].

Underlying the points made in this section is the fundamental in principle error of play equipment inspectors undertaking risk (benefit) assessments at all. Risk (benefit) assessment, by its very nature, is a holistic process, each assessment focusing on the particularities of each individual play provision and the context in which it subsists, which include, on the one hand, the duty holder's play policy; and on the other, knowledge of the individual provision, how it is used in practice, how that use may or may not change over time and by different segments of the user population. In other words, monitoring of the provision yields significant aspects of the information required to make an informed risk-benefit judgment. Parachuted-in inspections, often undertaken when children are not using the provision, cannot lead to judgments about risk levels; a judgment in any case that has meaning only in the context of the wider policy objectives of the duty holder.

Hazards

As indicated, the in principle position is that external play inspectors should not be undertaking risk assessments. That task is a matter for duty holders. However, at present, inspectors do make risk level judgments via their inspection reports, but here the practice is rooted in a flawed conceptual framework that, it is argued here, runs counter to what should be the overarching objective of play provision: creating rich, stimulating, manipulable environments for play. That flawed conceptual framework is also manifest through the embedded habit of conducting hazard-based risk assessments rather than ones that are risk-based.

Professor Löfstedt's recent review, 'Reclaiming health and safety for all: An independent review of health and safety' emphasises that his view:

[2] It is worth repeating here that there is no argument that standards about, for example, the tensile strength of the steel used in platforms are necessary.

' is founded on my belief that regulation should be risk-based rather than hazard-based and this has been my guiding principle…

'When taking a risk-based approach there are limits to what can be measured quantitatively and reliance on expert judgements rather than pure scientific evidence sometimes causes challenges. However, one of the main problems with basing regulation on hazard classification is that it is only one initial part of the risk analysis process, and without an assessment of actual risk it can inhibit activities which are not in fact risky and which may be beneficial to individuals and society.'

At the recent Risk It! Conference in London, Professor David Ball succinctly summarised the distinction between a ***risk based*** society, and a ***hazard-based*** one. The distinction is significant.

Hazard-based thinking	**Risk-based thinking**
That's a hazard.	*That's a hazard.*
Eliminate or reduce it.	*What's the risk?*
	Are there ***reasonable*** controls?

The reasonableness of any controls can only be determined in relation to the policy and objectives of the provision.

Arguably, it is the focus on hazard-based thinking, and conventional risk assessment being focused on hazard elimination or reduction, that has undermined so many leisure and play activities.

Play equipment inspectors, then, whose formal qualification is restricted to knowledge of the equipment standards, are not in a position to make risk-benefit judgments on behalf of the duty holder for three key reasons:

- as shown above, standards cannot stand proxy for judgments about what constitute acceptable levels of risk. It follows that one cannot 'read-off' a risk rating simply by referring to compliance or non-compliance with a standard

- risk (benefit) assessments are value saturated, and those values must be those of the duty holder's not the inspectors. In addition, the information required to form judgments about what constitutes an acceptable level of risk include actual knowledge of how the provision is used over time – a 'snapshot', one-off inspector's visit, often at a time when no children are using the provision, forms no basis for informed judgment

- in law, making the risk (benefit) judgment is the responsibility of the duty holder, it cannot be out-posted to external inspectors. Thus, any advice given to the duty holder, once accepted, becomes the duty holders[3] responsibility.

Taken together, the points made here suggest that the role and authority of play provision inspections requires significant amendment. As with the standards themselves, inspections are not

[3] It is important to emphasise that I do not argue that duty holders are not entitled to seek support and advice from third parties in coming to their risk-benefit judgment. I have simply outlined the basis on which risk-benefit judgments should be made and the ultimate responsibility of the duty holder. If external support is thought useful, say at the early stages of moving to a risk-benefit assessment approach, the provision provider should ensure it is sought from someone who shares the values and understandings of the duty holder. Once again, one does not approach a fishmonger for expertise on poultry.

mandatory. Conducting a risk-benefit assessment (risk assessment) is. As with standards, so too with inspections, play providers have ceded, or been persuaded to cede, their responsibility to determine whether in any particular case an external inspection is required and, if so, the criteria by which their play provision is assessed. Play equipment inspections, as currently formulated, act as multipliers and reinforcers of the flaws identified in the standards themselves.

Conclusion

Industry based play equipment standards and play provision inspections are two sides of the same coin. The flaws of one are replicated, and follow necessarily, the flaws of the other. The flaws of both are rooted in a set of conceptual misconceptions contrived and perpetuated by sectional interests.

We have in play equipment standards, and in the inspection regimes that are their allies and enforcers, a system that has achieved in practice unwarranted protected status, seemingly immune to scrutiny and fundamental questioning. But perhaps what is most queer and regrettable about this, is that it is play providers themselves who have shackled themselves unquestioningly to error.

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