

# Playground safety

by Ken Fingler, Risk Manager, HED Insurance

The warm spring weather triggers an influx of children to your playgrounds. Extra care needs to be taken to carefully inspect and repair all playground equipment including sports fields and skateboard parks that may have been damaged over the winter.

You can never prevent all accidents. However, the important thing is to keep municipal playgrounds and equipment in good condition and as safe as possible.

With today's litigious society, whenever there is an accident on a playground the chances are very high that the parents will be looking for someone to blame. That someone

would most likely be the municipality that owns and operates the playground.

For municipalities, the question is – 'Will you be found negligent if a child is injured in your playground?'

The *Occupiers' Liability Act* imposes a duty on all occupiers to take reasonable care to ensure that persons entering or using the premises are reasonably safe. The courts have gradually raised the 'Standard of Care' required, especially where the safety of children is involved.

Many municipalities have taken a very proactive approach to playground safety; however, a few municipalities are still

reluctant to start an inspection program.

This may be due to:

1. A feeling of complacency – the 'It won't happen in our town' sentiment; **or**
2. A fear that once you start to inspect, you may have to rip out all your playstructures and start over.

I would like to clarify these two areas:

1. Accidents **do** happen in small towns and RMs just like they do in large cities. While we have been fortunate in Manitoba to have experienced very few serious injuries on playgrounds, even fairly minor injuries to children can be very costly to the municipality if they are found to be negligent. You are, of course, insured if you are held liable for an injury, but, rest assured, it's no fun being told you are responsible for a child's injury!

*Example:* A three-year old child suffered a crushed big toe resulting from a bolt left sticking out of a teeter-totter. The injury was not major and the child fully recovered, however, the municipality was determined to be at fault for not inspecting and repairing the equipment and a settlement was reached.

As this was a minor child, the settlement had to be approved by the Public Trustee of Manitoba. (Settlement \$7,800 including Manitoba Health Benefits, Solicitors Fees and General Damages). This was a minor injury claim in a rural area that resulted in a fairly large settlement.

**Large claims can happen in rural areas – imagine the cost for a serious injury!**

2. The Canadian Standards Association (CSA) has developed a standard titled *CAN/CSA-Z614-98, Children's Playspaces*



**and Equipment** that was set out as a guide to the safe installation and repair of playground equipment.

This standard applies to new structures and to sections of structures that are being repaired or retrofitted. The intention of the standard, according to the Canadian Parks and Recreation Association, is not to force the removal of old structures, but rather to promote the safe installation of new structures and the inspection and repair of older structures to remove hazards and reduce injuries. Again, please keep in mind that, while your insurance protects you even if a claim is for an injury on a 'non-compliant' structure, it is in everyone's best interest to prevent accidents.

Statistics Canada reports that 65% of playground injuries result from children falling off playground equipment. These injuries are often quite serious because the surface material under the play structure was too hard or packed down to cushion the falls.

They also report that most deaths in playgrounds result from strangulation caused by drawstrings or scarves caught in cracks in slides or heads caught in inadequately spaced openings in guardrails or stairs.

Focusing on these two key areas (replacing hard packed surfacing with loose pack pea-gravel and checking for catch point and head entanglement areas) could prevent many of these injuries and reduce the severity of injuries that do occur.

Three elements are key to preventing playground accidents and avoiding negligence (and therefore avoiding liability):

**1. Regular Inspections – A) Weekly** (if not daily) visual checks for broken/loose equipment, hazardous debris, adequate surface material etc.; **B) Monthly** inspection of all equipment; and **C) Annual** comprehensive inspection of the entire play area.

**2. Reasonable Maintenance** – Prompt repair of all items that could result in an accident or injury and removal of failing equipment from use until repaired.

**3. Documentation** – Keeping records of all inspections and repair work is vital to proving reasonable care and is the best defense against claims of negligence.

**(Inspection forms and recommended procedures are available on the HED Insurance & Risk Management link on the AMM web site at [www.amm.mb.ca](http://www.amm.mb.ca) or by contacting Ken Fingler at 1-800-665-8990 ext. 279.) ●**

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