

South Hams District Council (the District Council)

Agreement relating to the inspection and insurance of play equipment and safety surfacing within Play Areas owned by organisations other than The District Council



1. Purpose

This Agreement sets out the procedures where the District Council is inspecting and insuring Play Areas on behalf of a third party organisation. The provisions of this Agreement shall subsist until such time as this Agreement is terminated in accordance with the provisions of Clause 11, or the Site Owner chooses to opt out when given the opportunity by the annual renewal letter, or if the District Council ceases to operate this inspection and insurance service.

The charges set out in this Agreement will be reviewed annually and are likely to rise incrementally each year – these increases will be communicated in the annual letter to Site Owners and in advance of any invoicing.

The start date of the Agreement is 1st September 2020, and the renewal date shall be the 1st September of each subsequent year.

2. Ownership (The Play Area)

The Play Area known as **The Orchard**, is owned by **Stoke Gabriel Parish Council** (hereafter referred to as the Site Owner).

3. Play Equipment and Safety Surfacing

Only the inspection and insurance of the play equipment and safety surfacing within The Play Area are subject to this Agreement. Any other infrastructure, including fencing, gating, fixtures, fittings, furniture, surfaces or any other equipment or items are expressly excluded.

NB - Mobile Locality Officers and the annual engineering inspectors may on occasion highlight other identified defects observed whilst onsite and undertaking their inspections (e.g. relating to damaged fencing, gates or furniture). This falls outside the scope of the Agreement in terms of the inspection and insurance service and any such reporting is as a courtesy only – Site Owners should not rely on this reporting alone or consider this part of the formal service – i.e. Site Owner should undertake their own routine inspections of features such as fencing, gates and furniture.

4. Inspection

The District Council will, for an annual charge of £210 + VAT (per Play Area - payable within 14 days from receipt of invoice) be responsible for the monthly inspection of the play equipment and safety surfacing at The Play Area only.

District Council Mobile Locality Officers will inspect the play equipment and safety surfacing and record their findings on a monthly basis and in accordance with best practice.

A copy of the monthly inspection reports will be reported by email to Site Owners as soon as reasonable possible after the inspection. The report will highlight if there is a defect recorded for ease of the Site Owner's reference.

The inspections will consist of:-

Play Equipment – assessing whether all fixtures and fittings are securely in position and are complete and free from damage, that there are no protrusions or sharp edges and that all safety measures are in a good state of repair.

Safety Surfacing – assessing whether surfacing is in a safe condition.

Within this annual charge, The District Council will also arrange one annual engineering inspection of the play equipment and safety surfacing. The report detailing the findings of the inspection will be sent to the owner of the Play Area as soon as reasonably practicable upon its receipt from the engineering inspectors. The scheduling of the annual inspections is undertaken by the engineering inspectors.

NB - Failure to act in an appropriate timescale to resolve defects identified in either the Mobile Locality Officer reports, or the annual engineering inspection report may result in the forfeiting of the Public Liability Insurance cover relating to the play equipment and safety surfacing afforded to the site owner under this Play Area Agreement. The District Council shall be held harmless for any claims, liabilities, costs, proceedings, damages and expenses which may result from a failure by the site owner to act in an appropriate time to resolve defects identified in the inspections.

If the District Council considers that the Site Owner is not acting responsibly/ appropriately to resolve defects identified in Mobile Locality Officer or annual engineering inspections (in relation to play equipment and safety surfacing only), the District Council will communicate this to the Site Owner and give them warning that failure to act within a given appropriate timescale will result in termination of the Agreement.

Failure to act upon the warning within a given appropriate timescale will result in immediate termination of the Agreement (at the District Council's final discretion) and forfeiting of the remainder of the annual charge paid to the District Council.

5. Grounds Maintenance

The District Council's responsibility in respect of the Play Area includes only the inspection and insurance of play equipment and safety surfacing. All or any other matters are the sole responsibility of the Site Owner, including grass cutting, unless undertaken by the District Council under a separate Agreement.

6. Defects

If, during inspections, the District Council identifies any defects with play equipment or safety surfacing that require repair or attention then the site owner will be notified.

Where a defect is identified, the District Council will ensure that the site, or equipment, is left in a safe condition, or taken out of use (e.g. by taping off). In some cases this may require closure of the site. In all cases the Site Owner will be notified as soon as reasonably practicable.

It will be the responsibility of the Site Owner to undertake repairs, or to commission repairs to resolve defects in a timely fashion. The Site Owner is reminded that play equipment and safety surfacing are subject to detailed safety standards (as set out in BS EN 1176 and 1177), and they should be mindful of this when undertaking or commissioning repairs.

In some cases the District Council may be able to quote for repairs, or to obtain a quote on your behalf from contractors we work closely with (e.g. welding, fabricating). If you would like to enquire as to whether the District Council can prepare a quote for a repair, please contact your relevant Mobile Locality Officer in the first instance.

7. Replacement/new equipment

Replacement/provision of new play equipment or safety surfacing will be the responsibility of the Site Owner.

If any equipment or surfacing is replaced, the District Council will require a copy of a Post Installation Inspection Report (to be commissioned by the Site Owner, and a copy forwarded to the District Council) and confirmation that any identified significant defects have been resolved and the newly installed play equipment and/or safety surfacing meets safety standards.

Failure to provide a copy of a PIIR to the District Council (before the equipment is made accessible to the public) may result in the forfeiting of the Public Liability Insurance cover relating to the newly installed equipment or safety surfacing afforded to the Site Owner under this Agreement.

8. Insurance

The District Council, at its own cost, will take out and maintain Public Liability Insurance in respect of the play equipment and safety surfacing only.

In the event of an incident involving the insured play equipment or safety surfacing please contact insurance@swdevon.gov.uk as soon as possible, and include full details of the incident, contact details of those reporting/involved with the incident, photos, date and time of the incident.

The Site Owner will be responsible for maintaining Public Liability Insurance in respect of the remainder of the Play Area, and at its discretion and own cost, any insurance against theft or damage or other insurable risk.

9. Signage

The Site Owner shall maintain correct and adequate signage at the Play Area in accordance with the legal requirement under the Occupiers Liability Act 1957, 1984. Details of the content for signage can be found at <https://www.rospa.com/play-safety/Advice/Signs.aspx>

The District Council is able to produce Play Area signage at a competitive rate should this be required. If you would like to commission the District Council to produce new signage for the Play Area, please contact parks@swdevon.gov.uk with details of what you require and a quote can be prepared.

10. Contact details

The Site Owner organisation is respectfully asked to keep the District Council informed of any changes to the primary contact person or email address for the purposes of sending through Mobile Locality Officer/annual engineering reports, and the annual renewals. The following two email addresses should be used for communicating any changes to Site Owner contact details:

Parks@swdevon.gov.uk
Localities@swdevon.gov.uk

11. Termination

Either party may terminate this Agreement during the course of any annual term by giving the other party at least 3 months written notice. This can be given by post or email (to the Site Owner contact or to parks@swdevon.gov.uk)

Any written or emailed notice shall not be assumed to have been received until it has been acknowledged by the other party. The obligation is upon the party terminating the Agreement to ensure that the other party has received the notice of termination (i.e. a follow up phone call and subsequent acknowledgement by post/email).

It should be noted that the requirement for 3 months notification of termination set out in Clause 11 does not apply to annual renewals. Within the annual renewal letter (typically sent in July/August), Site Owners will be given the option of opting out of the Agreement at the end of each annual term if they so wish. The District Council do respectfully ask for as much prior notice as possible if this is likely to be the case (namely to communicate to the engineering inspectors).

The terms of this Agreement shall be assumed to be carried forward each year upon payment of the annual invoice. Any increased annual charge will be communicated to the Site Owner within the annual renewal letter.

I confirm that **Stoke Gabriel Parish Council** understands and accepts the details set out within this Agreement.

Signed on behalf of **Stoke Gabriel Parish Council**:

Name _____

Signature _____

Position _____

Email _____

Date _____