

Since 14 May 2020 outdoor playgrounds and play equipment in public places may be open and may be used with caution. Where possible, councils are encouraged to open these facilities and to keep them open. Ultimately, however, this is a matter for councils to decide.

The following key rules are currently in place under the Public Health Orders:

- no more than 10 people can gather together in public places
- the size of the space must be sufficient to ensure there is 4m² of space for each person using the space, and
- outdoor spaces must not comprise 500 or more persons at the same time.

Councils are not responsible for enforcing these requirements in the Public Health Order, which is a matter for NSW Police. However, as the manager of public areas that contain playgrounds, councils need to take these rules into account in deciding whether to allow specific facilities to be open and whether any specific conditions should apply.

Councils should also consider how they can support good social distancing and health and hygiene practices by users, such as by installing signage and notices to communicate the rules that apply.

Opening playgrounds

For each playground or other area with play equipment, it is a matter for each individual council to decide whether it should be open, any conditions that should be applied and how best to communicate with users. In making this decision, councils should consider how large the area is and how many users are able to use the space at once to allow each person 4m² of space.

Playgrounds and play equipment are provided in a range of outdoor spaces, from small reserves to large multi-purpose parks with more than one playground area. To determine whether to treat a specific area as 'premises' under the Public Health Order, councils should consider whether a specific area or playground is effectively separate from the surrounding area. This will be clear, for example, where the boundaries of the playground area of a park are fenced or otherwise marked.

Having decided whether to open a playground, councils may choose to apply controls to help support social distancing and appropriate use of the facility. When considering whether to apply any controls such as usage limits councils should consider the number of people that can use that space at once based on the size of the area and the need to allow 4m² for each person. If a limit is applied, council should consider erecting clear notices or signs at key access points to support any controls. Councils should also consider the use of signage exhibiting 'risk warnings' under the *Civil Liability Act 2002*.

Council roles and responsibilities

Councils are not responsible for enforcing the Public Health Orders but where they are the occupier or operator of the space they will be responsible for managing areas and facilities on public land under their control. This is more likely to arise in circumstances where there is perimeter fencing restricting access to the site. This means that councils may be responsible for enforcing closure orders or any conditions placed on use of a public area or facility, even if that is for the purposes of protecting public health. Councils should work with their NSW Police Local Area Command in implementation of any restrictions.

For example, if a council erects a notice that requires users to behave in a specific way at a playground and a person acts contrary to that notice, authorised officers can enforce that offence under section 632 of the *Local Government Act 1993*. It must be clear on the notice that failure to comply is an offence for which penalties may be applied under the Local Government Act.

NSW Health suggests, where possible, that councils consider increased maintenance of handwashing facilities or the provision of hand sanitiser near playgrounds. While cleaning of outdoor equipment could improve the health and hygiene of the community, councils are not obliged to clean public outdoor equipment.

Keeping communities safe

People should exercise caution in using public outdoor facilities including playgrounds. Councils could consider erecting signs to remind users to continue to observe the social distancing and gathering advice and to remind them of good health and hygiene practices. The key messages are that users should:

- wash their hands (or hand-sanitise) before and after using equipment
- maintain social distancing at the playground
- stay at home and get tested if they are sick, and
- assume the person who has used the equipment before them has the virus and act accordingly.

NSW Health suggests, where possible, that councils consider increased maintenance of handwashing facilities or the provision of hand sanitiser near playgrounds. In addition, cleaning of outdoor equipment could improve the health and hygiene of the community, however, councils are not obliged to provide hand sanitiser or clean public outdoor equipment.

The Public Health Order does not specify any time limits for the use of playgrounds and other outdoor equipment. Unless a council has chosen to apply further restrictions, the rule that requires no more than 10 people to gather in public spaces means that:

- no more than 10 people in a group can occupy a space together so that individual people are closer than 1.5 metres apart within that group
- more than one group of 10 people can use a public outdoor area at the same time if:
 - the overall limit of 500 people in an outdoor area is not exceeded
 - where there is more than one group of people in a space, the people in that group should be at least 1.5 metres from the people in any other group, and
 - there is sufficient space in that outdoor area for each person to have 4m² each.