

Buggy Policy Review February 2021

Purpose of Review

1. To undertake a review of the current Buggy Policy at Queens Park Golf Course
2. To determine if the policy directly or indirectly discriminate against any protected characteristic as defined under the Equality Act 2010.
3. To seek opinion as to whether a specific waiver could be granted to mitigate the Council against known risks if buggy usage was granted during adverse ground conditions.
4. To review the current risk assessment on buggy usage within Queens Park public open space
5. To determine if current restrictions on usage are proportionate to the level of risk identified.

Policy Reviewers

Andy McDonald: Head of Parks & Bereavement Services.

Chris McMillian: Parks Area Manager/Golf Course Manager.

Sian Ballingall: Head of Legal Services & Deputy Monitoring Officer.

Sam Johnson: Policy & Performance Manager (Equality & Diversity).

Fiona Manton/Andrew Yenn: Risk Management, Strategic Finance.

Margareta Flicos/Michelle Street: Health & Safety, Strategic Finance.

Other References:

1. English Golf Union: Governing body for amateur Golf, Buggy Policy Guidance, <https://www.Englandgolf.org/wp-content/uploads/2019/11/Creating-an-equitable-buggy-policy-how-to-guide-for-clubs.pdf>
2. Review of other golf course buggy policies.

Background info:

1. Queens Park has operated and maintained a fleet of purpose-built off-road buggies for the specific purpose of playing golf for several decades. These are for hire in which season ticket holder have preferential hire rates. This initially allowed access for those with disabilities or restricted movement.
2. The request for the use of personal buggies started to appear in the mid 2000's
3. It is very much at the discretion of an individual golf course whether they allow the use of personal buggies. All golf course had and still do have three main options
 - 3.1. To refuse the request to use personalised buggies on their course
 - 3.2. To only allow access using the courses own managed and maintained fleet of purpose-built buggies.
 - 3.3. Or to allow the use of personal buggies in which clear and concise policies must be followed to mitigate against any insurance liabilities or potential damage to the course.
4. By allowing the use of personal buggies within a course, the course takes on additional liabilities and subsequent insurance risks for the use of such personal equipment.
5. Most personal buggies are adapted standard mobility buggies that have had some minor alteration to allow some off-road capability. They are not as stable as the purpose-built buggies used within most golf course managed fleets.
6. There are a few purpose-built personal buggies, these however are rare (mainly due to cost) and a policy has been written to cover all buggy usage within the golf course, not specifically for personalised buggy usage.
7. By agreeing with an individual the use of their personal buggy to play golf, an individual also agrees to abide by the terms of condition of their usage. These policies are specifically designed to mitigate courses against these additional liabilities. By allowing usage the course also accepts liability for the safety of any said user, whilst undertaking an organised activity.

8. This is not the case if an individual who by their own free will enters a public open space on a non-adapted personal buggy, as it is not specifically linked to any sanctioned activity. Their use is usually undertaken on level and made up ground (designated footpaths) and thus is undertaken at their own risk

Queens Park Golf Course:

1. The underlying geology of Queens is sand & gravel, as a result It is renowned for draining very quickly after significant rainfall.
2. Unlike many other local courses built within the local flood plains it does not suffer from significant prolonged flooding.
3. Queens Park only ever shuts after significant and persistent rainfall over several days.
4. On average the course only shuts completely on **6 occasions** per annum.
5. Queens Park is therefore one of the last local courses to shut during periods of sustained inclement weather and one of the first to open. Play at Queens significantly increases during these periods because of the prolonged closure of other local courses.
6. Despite its locations within the conurbation Queens has several steep sided valleys and inclines which the course has been designed to cross at several locations as a feature of play.
7. The course does not have a designated hard standing metallic buggy path (planning restricted) and as a result these steep descents and climbs are grass covered. During periods of wet weather these do become extremely slippery.
8. It is only during these periods that we restrict the usage of vehicle movements within the course including golf course maintenance equipment, fleet buggies and personal buggies.

The Buggy Policy

1. This was first introduced in 2008 in order to allow access for those with disabilities and/or restricted movement by assisting them to continue playing golf, assisting in their continued health and wellbeing.
2. As a local authority it was considered that we should be encouraging access by all, rather than simply denying a request to use personal buggies or charge for the use of our own fleet.
3. The policy was initially written in consultation with the Council's Equality & Diversity team, the Councils Insurance team and after seeking guidance from The English Golf Union and by observing and seeking good practice from within the golfing sector.
4. The policy has been regularly reviewed and adapted to account for changing legislation and feedback.
5. Permission is only granted to use adapted buggies for the playing of golf with a valid course ticket, in which compliance with the buggy policy is formally agreed by the user.
6. The policy is published on our website. <https://www.queensparkgolfcourse.com/book-a-tee-time/Buggy-policy.aspx>. Users are also reminded of the policy on the renewal of their season ticket annually, as a condition of purchase. This though must also be read in conjunction with our bad weather & frost policy.
7. These policies apply to all players at Queen's Park Golf Course and not at any single individual or group.
8. We make available electric trolleys which is recognised that disabled users would have priority usage of when buggy restrictions are in place.
9. Queen's Park Golf Course prohibits buggy use whenever it is considered that the state of the course, or part of it, and/or the weather constitutes an unacceptable risk – to the safety of the user and/or to other users of the public open space. Unsuitable conditions could include heavy rainfall; storm force winds, excessive waterlogging and/or frost & snow.
10. We are aware of some near misses at Queens of golf buggies sliding down the inclines when the ground has been saturated and nationally there are recorded incidents of this occurring and buggies turning over causing series injuries to their users.
11. We therefore have a duty of care to ensure the safety of all users of the golf course (player & public) and therefore need to mitigate against these risks.

12. We do try to have a flexible approach in managing access to the course, encouraging members to plan their playing times in advance and in accordance with predicted weather forecasts, rather than sticking to firmly to set days and specific times.

Whilst we take every effort to facilitate golf play with the use of personal and/or private hire buggies and encourage members to plan their week around weather forecasts, the course at times becomes too dangerous to allow the use of any vehicles, buggies & golf maintenance equipment for a limited number of days per year.

Current Mitigation:

1. The course and team have recognised and actively encouraged the use of personal buggies to enable access by disabled members.
2. An alternative flatter route may be available at interim periods where buggies are permitted
3. When restrictions are in place, we provide additional facilities, such as electric trolleys in which disabled users have preferential usage with no additional charge.
4. We are proactive with our communications through our, website, booking system, social media and where practical via direct telephone contact with private buggy users as early as possible to inform them of any restrictions that may in place or when they have been lifted.
5. We only restrict buggy usage specifically on the grounds of health & safety and not on the grounds of any potential damage that may be caused to the course and public open space due to their usage.

Conclusion of the review:

1. The current Buggy Policy subject to some minor amendments allows, encourages, and facilitates access by disabled users to the course in which any limited restrictions that may be imposed from time to time are proportionate to the risks identified and mitigates the Council against those risks.
2. Following some minor amendments in terminology and review by the Equality and Diversity Manager he has concluded that he is confident that the policy does not directly or indirectly discriminate against any protected characteristic as defined under the Equality Act 2010.
3. The Equality & Diversity Manager suggested that an Equality Impact Assessment should be undertaken (completed and reviewed 12/01/2021).
4. Following a review by the Head of Legal Services it was determined that the Council retained significant liabilities as laid out below that can not be excluded through the use of a waiver:
 - a. The Occupiers Liability Act 1957 applies to permitted visitors (licensees) and provides that the Council (as occupier) owes those licensees a duty to take reasonable care in the circumstances to ensure that the licensees will be reasonably safe in using the premises for the purposes of being there (in this case, to play golf).
 - b. As the Council operates the land as a golf course it is therefore likely to be constrained by the Consumer Rights Act 2015 (the "CRA") which only allows the occupier to exclude liability for negligence (which includes a breach of duty owed under the OLA) where the following conditions are met:
 - i. the licensee is obtaining access for recreational purposes
 - ii. the damage may be suffered due to the dangerous state of the premises
 - iii. the occupier is not allowing access in connection with a trade or business.

- c. Legal opinion concludes that by the Council allowing access in connection with trade / business (i.e., the operation of the golf course), that the CRA does not permit the Council to exclude liability under the OLA in these circumstances to either users of buggies or the potential harm they do to other users of the public space in which the golf course is situated. (e.g. if a golf buggy were to slide down a slope onto a third party user).
 - d. This differs from the use of personal buggies for recreational activity within the public open in which the CRA would not apply.
- 5. Risk and Insurance perspective: It is their view that the key decider is whether we think a particular activity is safe to carry out on our land, rather than whether a waiver is effective. If the council is not satisfied that the user requesting, use of a buggy can do so safely (relating to injuring himself and others) then we should not be seen to permit something we had assessed as unsafe.
- 6. A review of the Safe Use of Golf Buggies has been undertaken in conjunction with BCP Councils Health & Safety team, which outlines the hazards and control measures put in place to mitigation the risk to users and the public who use Queens Park public open space.
- 7. The use of buggies in unsuitable ground & weather conditions or when the ground is wet and/or icy has been identified as high risk
- 8. It has also determined the mitigation in place is proportionate to the risks identified, which includes the suspension of buggy usage during those identified periods of high risk.
- 9. That the Buggy Policy is constant with industry practice and current national guidance.