

Age Labelling of Toys

Guidance and common issues encountered when making age
recommendations for toys

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LEGAL NOTICE

This document contains guidance only.

It is intended to explain obligations and how to fulfil them. However, readers are reminded that the text of the original regulation, directive or standard is the only authentic legal reference and that the information in this document does not constitute legal advice.

The British Toy and Hobby Association does not accept any liability with regard to the contents of this document.

Primary Authority Assurance



Milton Keynes Council as assured BTHA guidance as 'primary authority advice'

The level of assurance that this document can give individual members is detailed below

1. BTHA Coordinated Primary Authority Partnership

British Toy and Hobby Association members who are included within the 'regulatory group', as decided by the BTHA, will be able to legally rely on primary authority advice issued by Milton Keynes Council via BTHA.

This primary authority advice will be tailored to the collective needs and circumstances of the businesses that will be eligible to receive it.

Any proposed enforcement action in the UK against any of the BTHA members within the 'regulatory group' that is inconstant with this BTHA Primary Authority assured advice, will be "directed against". This means that Milton Keynes Primary Authority may direct an enforcing authority not to take proposed enforcement action (thereby blocking the enforcement action) where such action is inconsistent with primary authority advice.

Full members of the BTHA are all invited by BTHA to join the primary authority 'regulatory group' but can opt out of the scheme if they choose to.

2. Direct Primary Authority partnerships

British Toy and Hobby Association members who are part of the 'regulatory group' under the coordinated primary authority arrangement with Milton Keynes Council CAN also have a direct primary authority partnership with Milton Keynes Council or another local authority of their choice.

BTHA members who are included in the coordinated primary authority scheme, and who also have a direct primary authority partnership, are able to enjoy the benefits of legally relying on the BTHA Primary Authority assured advice and can also obtain other primary authority assured advice tailored to their individual business needs and circumstances.

They will have control over any questions and requests for advice at their own cost.

3. No Primary Authority Partnership

BTHA Full members can chose to opt out of being a member of the scheme by confirming annually or contacting admin@btha.co.uk at any time. In some cases these companies may not have a primary authority partnership with Milton Keynes or any other Council.

Such members can use the guidance with the knowledge that it is BTHA assured guidance however as the members are not in a Primary Authority partnership they cannot legally rely on this guidance.

Further details regarding the Primary Authority agreements can be obtained from the BTHA.

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1 Introduction

This document is intended to dispel common misconceptions surrounding the labelling of toys with regards to the manufacturer’s recommended age grading and the age-based safety warning requirements found in standards.

The document uses examples taken from EN71-1 as these are the most commonly encountered issues, but the principles also apply to other toy standards which also contain age-based safety warnings.

It is important to note that this is not intended to be an age grading document and assumes that manufacturers have determined an appropriate and reasoned age recommendation for their toy.

Although age grading of products does have safety implications, recommended ages for products should be considered separately to the age-based warnings found in standards.

2 Age Recommendation vs Age Warnings

The purpose of an age recommendation and an age-based safety warning is completely different. EN71-1 A 34 states that

“the use of the warning should not be confused with a recommendation for use. A recommendation for use could, for example, be a positive age recommendation by the manufacturer indicating the intended age of use.”

Age Recommendation	Safety Based Age Warning
Age the product is suitable for	Age the product is not suitable for

2.1 Age Recommendations

Toy companies develop toys for particular age groups based on a child’s development stage and ability and toys are given an “age grade” or an age recommendation to assist consumers in purchasing a toy that is suitable for the age of the child.

Age grading toys is not an exact science since children develop at very different rates.

Manufacturers have various sources of information to allow them to determine the age grading that it suitable for their product. The two most widely used are:

- **CEN ISO TR 8124-8 - age determination guidelines.**
These guidelines illustrate the age ranges during which a typical child has developed certain abilities.
- **CPSC Age Determination guidelines 2020**
These guidelines relate consumer product characteristics to the skills, play behaviours, and interests of children.

Manufacturers are wholly responsible for determining the age grading of a toy. Distributors, test laboratories etc do not have this responsibility but may have to comment on age grading where this may be a safety issue or risk of non-compliance. Companies are able to ask laboratories to assist in making age recommendations for toys.

2.2 Safety Based Age Warnings

An age warning will tell a consumer which ages a product is **not** suitable for. There are age breaks in the EN71 series of standards and in EN62115. The age breaks in safety standards should not be used to determine recommended grading of a toy as these are unrelated.

It is important to note that It is not acceptable to make an age recommendation to avoid an age-based safety requirement.

2.3 Comparison of age breaks in CEN ISO TR 8124-8 and EN71-1

Manufacturers have been challenged when the age grade of a toy does not match the safety age warning. E.g. not accepting that a product can have a recommended age of 4 plus together with a 36 months small parts warning.

The below table highlights the different age structures between the age grading guidance and the physical mechanical safety standard.

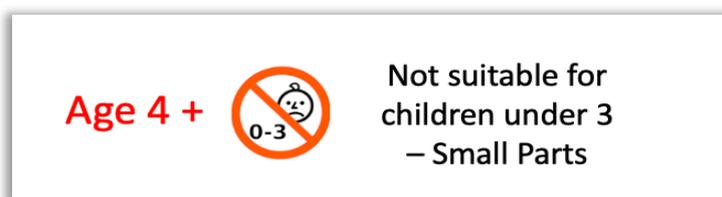
One can see the that age grade guidance is based on the development of a child rather than what is safe or unsafe. The EN71 -1 safety standard is aimed at minimizing risks and so does not have the subtlety that is required for age grading. This should demonstrate why it is entirely possible to have a product recommended for a 4 year old whilst still needing to warn a consumer that it is not suitable for children under 3 due to safety concerns.

As can be seen in the table, child development bears no comparison to the basic safety requirements.

CEN ISO TR 8124-8 age breaks		EN71-1 warning age breaks
0-4 months.	8-12 months	0-36 months
12-18 months	18-24 months	
4-8 months.	24-36 months	
3-4 years	6-8 years	36 months plus
4-6 years	14 years plus	

The following is an acceptable combination of markings that can appear on one product.

- *The product has been deemed appropriate for children of four years of age based on its attributes.*
- *The product contains small parts.*



3 Products which do not require the under three warning

EN71-1 Clause 7.2 requires that the toy must be accompanied by a warning if the toy might be dangerous for children under 36 months, an “under three warning”. Certain products are not required to have warnings, especially the complex toys for older ages of children. The EU Commission guide says:

Some toys are clearly not intended for children under 3 years. This may be because of their functions, dimensions, characteristics, properties or other cogent grounds. In these instances, the requirement to provide a warning is not mandatory. These toys which clearly cannot be intended for children under 36 months do not need to carry a warning.

The following are cases where an under three warning is not required:

3.1 Toys that are clearly unsuitable for children under 3

EN71-1 Clause 7.2 requires that a toy that not intended for but might be dangerous for children under 36 months to be accompanied by a warning.

Clause 7.2 **does not apply** to a toy which, on account of its function, dimensions, characteristics, properties or other cogent grounds, is clearly unsuitable for children under 36 months. This means that a toy that is clearly unsuitable for children under 36 months does not need to bear the small parts warning, even if there are small parts present.

Normally toys that are suitable for children of 6 years of age or older, are not required to have a warning. This figure is taken from US market practice and is suitable for most cases.

Acceptable markings that can appear on a product:

- *The product has been deemed appropriate for children of 6 years of age based on its attributes.*
- *The product contains small parts.*



Age 6 +

3.2 Products that do not have small parts or have no hazard potential

EN71-1 Clause 7.2 requires that the toy must be accompanied by a warning if the toy might be dangerous for children under 36 months. Typically, the hazards will be small parts and choking but can include other hazards like strangulation or suffocation. If the toy has been designed to remove these hazards, then the product does not require a warning. In this case the age grading alone, whatever age it may be, is acceptable and in compliance with the Toy Safety Regulations.

Acceptable markings that can appear on a product:

- *The product has been deemed appropriate for children of 3 years of age based on its attributes.*
- *The product does not contain small parts.*



Age 3 +

4 Other issues

4.1 Toys for children who cannot sit up unaided

There are requirements in EN71-1 for toys for children who are too young to sit up unaided.

It is the manufacturer's responsibility to determine if their toy fits within this category, indeed EN71-1, clause A.31 states that:

In determining which toys are intended for such children, the following factors are relevant: the manufacturer's stated intent (such as on a label) if it is reasonable, the advertising, the promotion, the marketing and whether the toys are generally considered as suitable for the age group in question. It is recognized that children normally sit up unaided between 5 months and 10 months.

It is important to note that A.31 is part of the informative Annex which mean the text does not form a requirement and there is no requirement for a warning or consumer advice related to this.

Manufacturers assess their toys on a product by product basis. CEN ISO TR 8124-8 is a useful source of information in this respect.

Manufacturers can choose to provide advice regarding the age suitability for their toys in the form of an age grade alone or may also choose to provide consumer advice about which ages the toy may not be suitable for depending on the toy.

4.2 Plush - Toys for holding and cuddling

EN71-1 states that soft-filled toys with simple features intended for holding and cuddling are considered as toys intended for children under 36 months. This means that such toys must comply with the requirements for toys for children under 36 months but does not mean that all plush toys must be suitable from birth (i.e. from ages of 0 and up).

It is acceptable for plush toys to be age graded as 6 months plus, 18 months plus etc, based on the manufacturer's reasoned age determination. Some such toys are not suitable for new-born babies but may be recommended for older children bearing in mind how they will be used (perhaps 9 or 18 months plus *age breaks in ISO). This would mean for example that such products will have to comply with the small parts requirements of EN 71-1 but do not have to comply clause 5.8 Size and shape of certain toys.

5 Positioning of warnings and age grades

There is no requirement for the age recommendation and safety based age warning to be positioned on the same face of the pack. There is no requirement that age recommendations need to be alongside or in the same field as the safety based age warning.

It is possible therefore to have the age recommendation on the front of the pack and any required warnings on the bottom or back of the same pack.

6 Misuse of warnings

6.1 Toys for children over three

There is a common misconception that if a toy is determined to be for a child of 3 years and above, it automatically requires a small parts warning. This is not the case and furthermore, there is a concern that such an approach devalues the warnings that are there when there is a hazard.

The EU Commission guide says

“Even if the use of a voluntary warning against use by children under 36 months is not prohibited by the TSD, manufacturers should consider carefully the use of warnings when they are not really necessary. Over-use of warnings may dilute the impact of properly used warnings in the long term. Therefore, it is recommended not to misuse this warning by affixing it on all toys (i.e. all toys intended for children above 3 years), so that the added value of the warning for the consumer remains fully efficient.”

EN71-1 A34 states:

“Unnecessary warnings should be avoided as they reduce the effectiveness of such statements.”

6.2 Toys with no obvious hazards

It should be noted that a product does not need to have obvious hazardous small parts before a warning can be applied. Individual toys may pass the testing without producing small parts or other hazards, but the manufacturer may realise there are certain issues in the production process which might cause hazards to be present. For example, wooden toys are often very strong and could pass the testing but wood is a natural material and natural defects may produce small parts – in this case the manufacturer may elect to include the warning as a precaution. Manufacturers can decide to apply a warning based on their knowledge of the toy, the way the product is used over its lifetime and how the product is manufactured.