

# **Busbys Solicitors**

## **LIABILITY TO VISITORS TO YOUR HOME**

Accidents can happen in all sorts of ways to visitors to your home. We live in a culture of blaming someone else and entitlement to compensation. But how could this affect you as a homeowner?

I am going to consider in this article the sort of everyday risk that can arise and the consequences that may follow from such a simple event as somebody slipping or tripping or being injured by some defective do it yourself workmanship.

### **Slipping, tripping – DIY victims!**

If you are the owner or occupier of the property then you have a legal duty to ensure that you take reasonable steps to prevent accidents to a lawful visitor, i.e. someone who is invited or permitted by the occupier to be on the premises. However the law is not quite as specific as that. The Courts generally assume that **anyone** has a right to walk up your front path. So, for example, if you have carried out some DIY work and laid a pathway leaving a slab sticking up and someone tripped over it and injured themselves you will have a duty of care to that person. Your duty of care would extend to someone delivering a news paper or even an unwanted circular, or somebody canvassing for votes in an election. The list of “visitors” is endless. It can include trespassers, and even burglars in certain circumstances.

### **Consequences**

Suppose your visitor has safely navigated the garden path and is now inside the house. Suppose that you have recently decided to save money and carried out some electrical work yourself, even a job as simple as replacing an electrical socket with a cracked face plate. These can be bought very easily. The job appears to be simple. But somehow you managed to buy the wrong size and a live wire comes out of its terminal and somehow becomes exposed. Your visitor wanting to demonstrate his latest computer

game touches the wire, gets an electrical shock which makes him jump up and bang his head on the table above the socket. He trips over, breaks his leg which unfortunately does not heal and has to be amputated. He can no longer work, go ballroom dancing or play football. This causes him to become terminally depressed and he has to spend the rest of his life in a specialist institution. This leads to an enormous claim for compensation to provide him with financial support for the rest of his life. If that visitor can show that you owed him a duty of care and that you did not adequately discharge that duty, and that your defective work was the cause of his injury then he has a right to claim compensation against you provided that his injuries were not too remote from your negligent act. Worrying isn't it?

So, if you are going to carry out DIY work at home whether electrical or for example building a brick wall you must do it to as high a level of skill as a professional. It is no good claiming that your efforts were your honest best.

### **Expert Help**

On the other hand experts working on your property must appreciate and guard against special risks. What about a chimney sweep who dies of carbon monoxide poisoning, or a window shutting on the window cleaner's hand. Probably you avoid liability except perhaps where the special risk was entirely known to exist and you did nothing to point it out or get it fixed. In these cases the employer would be at risk for failing to provide a safe system of work!

### **Snow and Ice**

Another example might be an accident resulting from snow and ice. Some people think that an occupier of premises cannot be held liable for failing to clear snow and ice but can become liable if an attempt to clear it has been made and someone is then injured. The legal test is whether the occupier has discharged his duties to take reasonable care to avoid injury to anybody who might foreseeably suffer injury as a result of his actions. Thus an attempt to clear a pavement outside a house which is not done effectively and results in somebody slipping can result in liability. The duty of course is higher where

children are involved. What about a child eating poisonous berries in your garden or sliding down your banisters? You may well find yourself responsible if they suffer injury.

### **How do you avoid liability?**

Well I suppose the best way of doing this is to make sure that you are adequately insured against such liabilities so that you do not yourself become involved in a claim against you but hand the entire claim over to your insurers. Never admit liability as this may compromise your right to claim on your insurance policy. If no claim is made against you for 3 years from the date that the injured person could first have made the claim then their time to do so will in most cases have expired (children's claims run until they reach their 21<sup>st</sup> birthday).

You may be able to show that your visitor was fully aware of the risk and consented to take it but this presupposes that you pointed out the risk, preferably with a witness being present, or by way of a notice or by some other means of proving it and the visitor accepted that he was entering the premises in that knowledge and at his own risk. Any notices must be clear as to the specific danger and not just in general terms seeking to deny responsibility. It would be unusual for a householder to put up a large notice in their own home whereas of course you see these all over the place where public liability might arise eg in a supermarket, shop or other premises. Even then a notice may not be adequate to avoid liability altogether. Accidents at work, in shops, and on the streets are covered by a whole different set of rules as well as the general concept of negligence.

There are statutes such as Occupiers Liability Acts 1957 and 1984 and Countryside and Rights of Way Act 2000 all putting you the occupier at risk of a claim against you.

### **Minimise Risk**

The overall picture is clear. Check your premises very carefully for risk to yourself and your family and others. Only undertake DIY work with the utmost care and using the right tools and equipment particularly with such hazardous materials as electricity or gas, surfaces which may become slippery or indeed structures which may fall down. All can lead to potential claims against you. Perhaps the matter is best summed up with the old

Hackney phrase “horses for courses”. Get an expert so you can pass the responsibility away from yourself. Most of all get effective insurance cover.

### **Action**

Whether you are perpetrator or victim, you are often caught in a difficult position. Issues of liability and compensation are often complex and worrying. Check whether your insurance cover will provide legal expenses cover - often you will be pleasantly surprised. If your insurers offer it on premium renewal, give thought to getting legal expenses covered.

Take good legal advice. Here at Busbys we have decades of experience in handling accident claims, including those of maximum severity. We hold the coveted “Lexcel” quality kite mark. Lexcel stands for “legal excellence”. So do not hesitate to get in touch on **01288 35 9000**.

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