

## **Public Liability – An Overview**

Slips, trips and falls are unfortunately the most common types of accident in the UK.

### **What does Public Liability mean?**

Public bodies have a duty of care towards members of the public to ensure that all pavements, roads, parks and any other public places are maintained to a certain standard to ensure that members of the public using them are safe.

If you have been injured in an accident that has happened in a public place, then you may be entitled to compensation if we can show that the responsible party has breached its duty of care towards you.



We have a dedicated team of specialist personal injury lawyers who deal specifically with public liability claims who will work tirelessly to obtain the best possible outcome for you and who will deal with your claim professionally and efficiently.

Making a claim against a public body can be a daunting prospect but we will endeavour to make the process as hassle free as possible.

We have helped people to claim compensation for numerous types of public accidents; the most common being trips and falls as a result of:

- Uneven paving slabs
- Tree roots
- Potholes
- Obstructions on the highways
- Hazardous rubbish left in public access routes
- Defective stairwells
- Car parks
- Parks
- Schools



The responsible party should have public liability insurance to cover their negligence which means that we will recover your compensation from the insurance company in most cases.



### **What information is helpful at the beginning of a claim?**

If you have been involved in a trip or fall accident on an uneven surface or pothole then we will need to obtain certain information from you at the beginning of the claim.

It is extremely important to have the **correct accident date and the exact location** where it happened; this includes details of the nearest house and/or landmark so that we can find out who is responsible.

Once the defect has been correctly identified we need to establish that the defect can be classed as an actionable defect (i.e. that it is dangerous). This means we need to prove that:

- The uneven paving slab is more than 20-25 mm deep
- The pothole in the road is more than 40 mm deep

It is important that we act quickly and **obtain photographic evidence** to support the claim. The most helpful way to do this is to take measured photographs of the depth of the tripping point which caused the fall. It is advisable to use a ruler which clearly shows how many millimetres deep the defect is, wherever possible.

**Independent witness evidence** is also extremely helpful in public liability claims, which will help us to establish how long the defect has been present.



Don't worry if this evidence is not available or if the defect has now been repaired, as we will still be able to investigate the claim and prove who is at fault. We will do all of the leg work for you and will carry out our own thorough investigations into liability.

### **The law relating to public liability claims**

The law relating to highways claims is governed primarily by the Highways Act 1980. There are two main sections of the Act which we will focus on here, s.41 and s.58.

#### **Section 41**

The Highway Authority has a duty to maintain the highway under Section 41(1) of the Highways Act 1980.

Therefore, in order for us to establish a breach of duty we must prove that the accident was caused by an actionable defect. It is not enough to show that the general area near

the accident location is in a bad state of disrepair, you have to identify the exact defect which gave rise to your injury.

### Section 58

**The Highway Authority owes a duty of care for public places which are maintained at the public's expense.** Therefore they are under a duty to repair and maintain the highway which can be any pavement, road, cycle tracks, walkways or footpaths where every member of the general public has a rite of passage.

The court will take into account a number of factors in determining liability:

1. The character of the highway
2. The standard of maintenance appropriate for a road of that character
3. The state of repair which a reasonable person would expect of the that highway
4. Whether the highway authority knew or could reasonably have been expected to know the condition of that part of the highway to which the action relates was likely to cause danger to users of the highway (i.e. has the defect been reported)
5. If the highway authority could have reasonably been expected to be aware of the danger before the accident occurred, then what warning notices could have been displayed to warn of the danger

What we have to prove therefore is that it was more probable than not that the defective area was not reasonably safe and that the dangerous condition of the highway caused the accident. This is why it is important to obtain evidence as soon as possible.

### **Time limits for bringing a claim**

If you have been injured in an accident, a claim must generally be brought within 3 years of the date of the accident. If you are under the age of 18 at the time of the accident, the three-year time limit does not begin until your 18<sup>th</sup> birthday (giving the injured person until the age of 21 to pursue the claim).

