

No such thing as an accident?

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For any owner or occupier of land or premises, the Occupiers Liability Act 1957 (section 2) imposes a duty of care to take reasonable steps to ensure that lawful visitors are reasonably safe. An occupier is defined as someone who has control of premises.

This obligation is qualified. More limited rights are provided to trespassers (under a separate Occupier Liability Act 1984). The occupier is also protected in that visitors are expected to act within the limits of the invitation. There is a well-worn statement that “when you invite someone to use the stairs you do not invite them to slide down the bannister”. Often it is what a person has chosen to do on the land which is dangerous, and not the state of the premises themselves.

What steps are ‘reasonable’ to make a visitor ‘reasonably safe’?

When considering the duty, the courts should not impose too onerous a burden on owners/occupiers. There is therefore no obligation to warn against obvious hazards. The Act requires a court to take into account ‘all the circumstances’ when considering what is reasonable. That involves an assessment of the likelihood that someone might be injured and the seriousness of any injury that might occur. This is weighed against the cost of preventative measures – the court should not expect an owner/occupier to take disproportionate and costly measures to guard against a low risk of an accident occurring.

The court will also take into account the social utility of the activity. An example of this was seen recently in *Liddle v Bristol City Council* (2018) where the court found that there was a public utility in preserving the historic Prince’s Harbour Wharf, despite the fact that the area, with tram rails and an unprotected edge of the wharf, did pose some risk to cyclists. In that particular case, the risk occurred when the claimant had lost control of his bicycle, fell into the water and sadly died. Nonetheless the local authority were found to have taken reasonable steps in providing signage and were not required to install fencing.

Not every risk has to be guarded against and a balance must be struck. This does however give some reassurance that not every accident gives rise to liability.

The article was originally published on BusinessLive on 8 July and can be viewed [here](#).

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