

IMPORTANT LEGAL INFORMATION FOR ACCIDENTS INVOLVING SNOW AND ICE



SNOW AND ICE ON THE HIGHWAY

Cases involving injuries that occur as a result of people slipping on icy roads or pavements are difficult to pursue successfully. The Railways & Transport Safety Act provides that a highway authority has: "a duty to ensure so far as is reasonably practicable, that safe passage along a highway is not endangered by snow or ice". What this means is that providing a highway authority can show that it took such steps as were reasonably practicable taking into account the conditions and the resources available, they will not be liable for accidents occurring as a result of slipping or skidding on a road. In order to be successful in these claims you would need to prove that the highway authority had either an ineffective winter maintenance policy or that they failed to comply with that policy. If it is right that many authorities have run out of grit due to exceptional demand or are being rationed by central government edict, then they will no doubt say they have inadequate resources and aren't liable.

SLIPPING ON SNOW AND ICE ON PRIVATELY OWNED PROPERTY

The Occupiers Liability Act 1957 created a common law duty of care which looks at the circumstances of the case to see that a visitor is reasonably safe in using the premises for the purposes for which he was invited or permitted to be there. This duty of care is subject to the proviso that the occupier knows or ought to have known of the existence of the danger on the land. What this means is that if someone has a very icy path and knows that it is slippery and has failed to take any steps to try and make it less slippery, they may be liable for an injury sustained by someone such as a postman lawfully visiting their premises. There is much misinformation printed in the Press to say that you will only be liable for accidents occurring on your premises if you have tried to make the area less slippery and that your liability is less if you have done nothing. This is not correct. If you have taken reasonable steps to try and make your premises as safe as is practicable in the circumstances then an occupier will not be held liable. For example, if you put salt on your path on one day and it snows overnight and your path is then very slippery early the next morning it is unlikely that you would be held liable for an accident occurring to someone who had walked down your path before you had got out of bed that morning. It is fairly unlikely that a court would hold an ordinary householder liable for failing to clear snow and ice up to their front door, and it is possible that someone who does a poor job and leaves an ice rink might be more liable than someone who leaves snow untouched.

THE LIABILITY OF AN EMPLOYER

In the workplace there are lots of duties placed on an employer particularly under the Workplace Regulations 1992 where an employer is under a duty to ensure that floors and traffic routes in the workplace are not slippery and that they are kept adequately drained and free from any article or substance which may cause a person to slip, trip or fall. This clearly applies to snow and ice and applies to external as well as internal areas. Accidents arising out of slipping in the workplace are much easier to pursue successfully than slipping on a road or a pavement. Employers should be able to make access to work safe and should have resources to grit and clear ice. Anyone injured on their works premises, unless the snow has only just fallen, should seek legal advice.

WATER LEAKS

In freezing conditions many of the old pipes are failing and this causes water leaks. Where water freezes it is particularly hazardous to road users. The Water Industry Act 1991 imposes a strict liability on water undertakers for the escape of water. If an accident has been caused as a result of a leaking water pipe which has then frozen there should not be any difficulty in pursuing a successful civil claim.

CONCLUSION

If any member of the Police Federation or their family has sustained an injury due to the recent Arctic weather conditions they should not hesitate to contact **PF Claimline** on:

0800 9171 999

or if they have any specific queries they can call **Liz Dux** of Russell Jones & Walker on 0207-657 1653.



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