

Negligence - What is It and How Do You Prove It?

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Accidents happen every day to people from all walks of life. Many people think that accidents only happen to other people and take it for granted that others will look out for them. Unfortunately people can behave negligently without even realising it. This can cause accidents that injure other people. This is clear from the frequency of road traffic accidents and cases of workplace injury. The majority of accidents are somebody's fault; around two thirds can be attributed to negligence, whether it is a car crash or a slip or trip in a public place.

So what is negligence?

Negligence is defined in law as: 'The failure to exercise the care that an ordinary prudent person would exercise: either doing that which a prudent person would not do, or failing to do that which a prudent person would do.'

An example of negligence is when an employee is subjected to hazardous working conditions such as tripping over a box that has been left in a walkway or slips over a mess that hasn't been cleared up. In these cases the employer would be negligent if it can be proven that they did not adhere to their duty of care. Duty of care can be defined as 'a duty to do everything reasonably practicable to protect others from harm'. If an employer has failed in this duty then they are liable to compensate the injured person.

Types of personal injury litigation

There are three main types of personal injury claims that can be made:

- Road traffic accident claims are usually straightforward and include damage to property as well as personal injury.
- Employers liability claims describe cases where a claimant was injured during the course of their employment. This can include repetitive strain injury or asbestos related illness.
- Public liability claims are claims which arise out of public use of products or premises, for example when a person trips over a loose paving slab.

How do you prove negligence?

Every case has at least two sides however, it is the responsibility of the person making the claim (the claimant) to prove his case and persuade the Court that the person who they feel is to blame for the accident (the defendant) was in breach of statutory or common law duty owed to him or her. There are several types of evidence that would support a claimant's case and help to prove negligence. They are as follows:

- Witness statements
- Medical records
- Expert evidence
- Employment records and occupational health file
- Photographic and video evidence
- Invoices, estimates and receipts
- Reports from public servants such as police officers

These pieces of evidence can apply to any of the personal injury types outlined above.

It also needs to be proven that the defendant owes him a duty of care, that the defendant is in breach of that duty and that the breach has caused losses (i.e. damage to property, or a personal injury) which were reasonably foreseeable. It is important to remember however that an employer's duty of care is not conclusive. A duty of reasonable care is expected from employers. Individuals should take a certain amount of care towards their own personal wellbeing and safety and realise that accidents can happen.

For free legal advice regarding making a personal injury claim visit www.the-claim-solicitors.co.uk or to learn more about negligence and to make a claim, or alternatively you can call us on 0800 197 32 32.

www.the-claim-solicitors.co.uk have many years experience of handling personal injury claims. They help people to claim compensation after non fault accidents.

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Editorial notes: The Claim Solicitors provides full accident litigation compensation services. Helps people to claim compensation for all types of injury from whiplash to head injuries. By Sophie Evans
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Compensation following a non fault accident.