

Snow and ice – your responsibilities

WHAT ARE YOUR RESPONSIBILITIES WHEN IT COMES TO DEALING WITH SNOW AND ICE?

There are a number of considerations when dealing with roads and paths that are contained within, and form part of, the common areas of your premises.

As the owner of these areas, a College, University or School will have a duty of care under the Occupier's Liability Act 1957. This duty is a 'common duty of care' and is set out under Section 2 (2) of the Act.

The duty is:-

To 'take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purpose for which he is invited or permitted by the occupier to be there'

The term 'visitor' would of course extend to include all students and any visitors to the premises which are not employees.

Does this duty extend to gritting in the event of snow and ice?

Currently it's not possible to give an definitive answer as we are not aware of any test cases for a snow and ice claim against a School, College or University where someone has fallen on a path or road under the ownership/control of the Institution.

However if you are aware of the specific hazards at a particular location it is likely a Court would expect some action to have been taken to meet the duty. However, it doesn't seem reasonable, or economic to have to attend to all roads and paths to protect every person who may come along.

Where there is a duty to deal with snow and ice, the usual method is to grit. However snow clearance may also play a part. Your Institution will therefore need to undertake a risk assessment to establish its duties.

The assessment should establish:

- the areas to be attended to
- an order in which the areas will be attended to, detailing priority locations and how the priorities were worked out
- when gritting/clearance will be started – for example, will it be preventative or reactive?
- how gritting/clearance work will be carried out, who will do it and what equipment they will use
- a system for monitoring the weather to ensure any preventative gritting is carried out at the right time
- records of when and what gritting/clearance has been done and by whom – even if you have the most perfect plan, if your employees fail to turn up, or do a poor job, liability can be found against you.

Remember that if a claim is made, it will be a matter of showing that what you have done was reasonable, given the circumstances at the time.

If you chose to grit a public right of way and do so badly, you may incur a liability. Negligent misfeasance on a public right of way can give rise to a liability. As a result your Institution could end up in a worse position than if it had done nothing.