



Public liability claims – what injuries are covered in “slip and fall” incidents

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“Public liability” is a term frequently used by personal injury lawyers to describe compensation claims that can be brought for injuries that occur in a “public place”. These types of claims are also commonly referred to as “slip and fall” claims. But [what is public liability?](#) Who can make a claim? What type of injuries are covered?

Three factors required for a successful public liability claim

1. Duty of care

Public liability claims are governed by legislation called the *Wrongs Act 1958*. This legislation is specific to Victoria and provides that compensation claims can be brought for injuries that occur in a public place where there is someone responsible for:

1. the maintenance and upkeep of the area where the injury occurred; and/or
2. the maintenance and upkeep of the equipment involved in the injury; and/or
3. the activity being undertaken when the injury occurred.

This is known as a duty of care.

2. Breach

To be successful in a public liability claim, you need to show that there was negligence or a failure in the duty of care by the person responsible for the site where the injury occurred, or the activity being undertaken.

This is known as breach.

3. Causation

You also need to show that it was this negligence that specifically caused the injury to occur and that the injury wasn't pre-existing or caused by some other factor.

This is known as causation.

Determining who is responsible for your injury?

If you have sustained an injury that occurred in a public place or was the fault of someone else, it is often helpful to consider who was responsible for the injury occurring.

Public liability claims are often brought against:

- local councils;
- business owners;
- schools (both public and private);
- clubs (including sporting clubs);
- landowners; and

All of these organisations are required to have appropriate insurance so that compensation can be paid in the event that an accident or injury does occur.

Common public liability claims

- **Slips and trips in public places** (slip and fall) such as on footpaths and road verges. In most cases, the local council is the organisation responsible for these injuries. If it is a major road, then VicRoads may also be responsible.
- **Injuries from Telstra or other electrical pits** occur when the pit lid has failed to be maintained to the required standard and is cracked or defective or fitted incorrectly, causing pedestrians to trip or fall into or over the pit.
- **Injuries at supermarkets and shopping centres** occur when customers slip on spilled liquid or goods, trip on items that are not appropriately stored away or through other factors such as faulty goods like lifts, escalators or trolleys.
- **Injuries that arise at schools or childcare centres** such as injuries from playground equipment, injuries caused by other children or students or injuries caused by carers or teachers.

- **Injuries as a result of paid recreational activities** such as horse riding, watersports and rock climbing.
- **Injuries at playgrounds** occur when playgrounds are not maintained to the required safety standards.
- **Injuries at clubs and institution activities** for example church and scouting activities and camps.
- **Injuries at private residences** occur when a building or premises is not safe and has not been built or maintained correctly.
- **Injuries caused by dogs** occur when a dog is not properly restrained or kept in a safe and secure area.
- **Injuries at rental (including holiday) accommodation** occur when the premises have not been maintained to the required standards.
- **Nervous shock claims as a result of witnessing a traumatic event**, such as an injury to a loved one in a public place or a paid recreational activity.

What can I claim?

The law in Victoria provides that if you have sustained a permanent injury in negligent circumstances you are entitled to claim compensation for:

- medical expenses for any required treatment and medication;
- personal care that is required as a result of the injury;
- care that you can no longer provide to loved ones as a result of the injury;
- lost wages; and
- pain and suffering damages if your injury is permanent and meets the significant injury threshold.

Why should I engage a public liability claims lawyer?

Engaging a lawyer as soon as possible after the injury occurs is crucial so that you can receive correct advice with regard to your rights and entitlements. Importantly, if you pursue any claim on your own, you may not be offered **all** that you are entitled to by the insurance company. It can be tempting to accept what appears a substantial sum from an insurer but, in the long run, this may not be sufficient for your long term, future needs. The insurance company will most likely require you to sign a release which will mean that once your claim is resolved, you will not be able to apply for additional compensation, regardless of your need.

At Guardian Injury Law, we are experts at pursuing public liability claims for those injured in a public place. We take a no-nonsense approach and provide advice in plain English so that you can make informed decisions every step of the way.

Contacting Guardian Injury Law

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