



Compensation if injured on walking tracks or other outdoor environments

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Many Victorians choose to spend their weekends enjoying the outdoors, whether that be around their local neighbourhood, a walking track or other council or government-managed outdoor area. While tripping hazards in these sorts of environments are commonplace, a slip or trip can sometimes result in a serious injury. If that is the case, you may have an entitlement to claim compensation from the entity designated to maintain the area, whether that be the council or another body. This is called a public liability claim.

You can learn more about [public liability claims here](#) (including claims for other types of accidents like supermarket falls, playground accidents, schools etc).

What types of accidents might happen on walking tracks and footpaths?

Common accidents on walking tracks and footpaths include:

- trips on uneven footpaths or pavements;
- trips or slips on uneven or poorly maintained staircases (for example, with broken handrails); and
- trips or other injuries caused by fallen tree branches.

What types of injuries may lead to a public liability compensation claim?

While a cut, bruise, or mildly sprained ankle is an inconvenience, these sorts of injuries which are likely to heal in a relatively short time period, will not generally give rise to compensation. To be eligible for any form of compensation, one of the elements that must

be established is that you have suffered a 'significant injury'.

A significant injury is an injury that is assessed in accordance with the 4th edition of the American Medical Association Guides and meets:

- a 5% whole person impairment (WPI) or more for spinal injuries;
- a greater than 5% WPI for other physical injuries; or
- greater than 10% WPI for psychological injuries.

Examples of some of the types of 'significant injuries' that might arise after an accident on walking tracks or other outdoor environments include:

- spinal injuries;
- broken bones;
- dislocation injuries;
- head injuries;
- significant cuts; and

This is not an exhaustive list. Whether you have a significant injury is determined by a doctor who specialises in the relevant field; for example, an orthopaedic surgeon would usually assess bone and muscular injuries.

If you are not sure whether you have suffered a 'significant injury', you should seek legal advice from an experienced public liability lawyer.

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Establishing negligence before claiming compensation

If you are able to establish that you have suffered a 'significant injury' as a result of an accident on a walking track or another outdoor environment, you must also be able to establish that the injury was caused as a result of the negligence of the entity that was required to maintain the area where you were injured.

In the case of footpaths and local walking tracks, this will often be the local council or government authority designated to look after that road or outdoor recreation area. This may also be the case for bush tracks and other outdoor spaces like conservation parks and national parks. In some instances, there may be more than one responsible entity.

Whether the actions of the entity were negligent depends on a variety of factors, including:

- what caused the injury;
- what time frames were in place for the entity to inspect and maintain the area the injury occurred (if any);

- whether the entity was aware of the danger;
- whether similar accidents have occurred in the past;
- whether the equipment the injury occurred on met the relevant safety standards.

Again, this is not an exhaustive list.

In our experience, establishing the viability of the negligence aspect of these claims can be a time-consuming process. This is because it can be difficult to establish at a first glance who the responsible entity is and can often require multiple document requests before a clear understanding of this aspect of the claim can be gained.

It is, therefore, imperative that you do not delay getting legal advice from an experienced public liability lawyer to ensure that these investigations can commence as soon after the injury as possible.

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Time limits for public liability claims

In Victoria, you must issue court proceedings within three years of the accident occurring or becoming aware of the injury. There are some limited circumstances where this time limit can potentially be extended but it becomes much more difficult.

This highlights the need to seek legal advice as quickly as possible.

What sort of public liability compensation is available?

There are several potential compensation options which may be available to you if you are able to establish both the significant injury and negligence aspects of a public liability claim.

These include:

1. Damages for pain and suffering/loss of enjoyment of life; and
2. Damages for pecuniary loss which encapsulates:
 1. economic loss both in the past and in the future if you are unable to work as a result of your injuries;
 2. medical expenses incurred as a result of your injuries;
 3. care expenses incurred as a result of your injuries;
 4. any other pecuniary losses incurred as a result of your injuries.

Practical tips if you're injured and seeking to make a public liability claim

1. Take photos of the accident site and the cause of your injury. This helps particularly where rectification works have been carried out subsequent to your injury date.

2. Report the injury to the local authority (whether that be the council, another government body or a private entity) if you are able to ascertain who that is.
3. See your GP as soon as possible after the accident. Give them your account of what has happened, and continue to get the treatment you need.
4. Obtain the contact details of anyone who witnessed the accident.
5. Keep a record of all of the out-of-pocket expenses you have incurred in relation to your injuries.

Guardian Injury Law are experienced public liability lawyers

The reality of public liability claims is that accidents leading to injury occur in a variety of circumstances, and there is no 'one size fits all' answer to whether you have a claim.

At Guardian Injury Law, we have experience in bringing successful public liability claims and will advise you on all of your potential compensation entitlements.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

enquiries@guardianinjurylaw.com.au

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.