

FACT SHEET

SOCIAL ACTION, RESPONSIBILITY AND HEROISM ACT 2015

Introduction

1. Evidence suggests that people are deterred from volunteering, helping others or intervening in an emergency due to the fear of risk and/or liability. "Helping out: a national survey of volunteering and charitable giving" in 2006/2007 found that this was one of the significant reasons cited by 47% of respondents to the survey who did not currently volunteer.¹ A more recent poll carried out by ICM on behalf of St John Ambulance in August 2014 showed that of the 2,035 adults questioned, 34 per cent said that they might be deterred from intervening in a situation requiring first aid because of concerns about legal repercussions.²
2. The Act is designed to address concerns of this nature. It is intended to provide reassurance that if something goes wrong when people are acting for the benefit of society or intervening to help someone in an emergency, the courts will take into account the context of their actions in the event they are sued for negligence or for breach of certain statutory duties (which operate in a similar way to the law of negligence).
3. It is also intended to reassure people, including employers, that if they demonstrate a predominantly responsible approach towards the safety of others during a particular activity, the courts will always take full account of the circumstances.

The law of negligence

4. If somebody causes loss or injury to another person during the course of an activity, it may be open to the injured party to sue them for damages for negligence or, in some circumstances, breach of statutory duty in the civil courts. The law of negligence is part of the Common Law, but there are some statutory duties of care that exist (for example the duty owed by the owner or occupier of land to visitors and trespassers) which work in a similar way to the law of negligence.
5. For a person to be found negligent or in breach of such a statutory duty the court must be satisfied that he or she owed the injured party a duty of care and that his or her conduct fell short of the applicable standard of care.
6. The standard of care which applies in a claim for breach of statutory duty depends on the wording of the duty in question. In a claim for negligence, a court considering such a claim will consider whether the defendant acted

¹ <http://www.ivr.org.uk/component/ivr/helping-out-a-national-survey-of-volunteering-and-charitable-giving>

² <https://www.sja.org.uk/sja/pdf/SARAH-SJA-submission.pdf>

reasonably in all the circumstances of the case. The court looks at whether the person acted reasonably in all the circumstances against an objective test ('the ordinary and reasonable man') but what is in fact expected will vary from case to case. For example, the standard expected of a workman in a factory subjected to long hours and the slackening of attention which comes from constant repetition of the same operation is not so high as that of a reasonable man in more serene circumstances. In cases where the activity required particular skill case law has established that the actions of the defendant are to be judged against the ordinary and reasonable man with those particular skills.

7. In determining whether the standard of care was met in a negligence case, the courts look at a range of matters including the size of the risk, the likelihood of the risk happening, the gravity of the consequence and the cost and practicability of avoiding the risk. Where a defendant was acting in an emergency the courts make allowance for the need to act without time for reflection. The Compensation Act 2006 confirmed that, in considering what was necessary to meet the standard of care in a particular case, the courts can look at whether a particular requirement might prevent a desirable activity being carried out to any extent or discourage people from undertaking functions in relation to it.

Summary of the Act's provisions

8. **The Act does not change the overarching legal framework, but directs the courts to consider particular factors when considering whether the defendant took reasonable care.** In any negligence/ breach of statutory claim that is brought where the court is determining the steps a defendant should have taken to meet the applicable standard of care, it must have regard to whether:
 - a) the alleged negligence/breach of duty occurred when the defendant was acting for the benefit of society or any of its members (section 2);
 - b) in carrying out the activity in the course of which the negligence/breach of statutory duty occurred, the defendant had demonstrated a predominantly responsible approach towards protecting the safety or other interests of others (section 3); and
 - c) the alleged negligence/breach of duty occurred when the defendant was acting heroically by intervening in an emergency to assist an individual in danger (section 4).
9. The Government anticipates that the Act will be relevant in a wide range of situations where people have adopted a responsible approach towards the safety of others during an activity, have been acting for the benefit of society or have intervened to help others in an emergency. It is intended to give reassurance to people that a court will take full account of the context of their actions in the event that they are sued.

10. It does not, however, tell the court what conclusion it should reach and does not prevent a person from being found negligent if the circumstances of the case warrant it. Nor will it have any bearing on criminal liability.

Territorial extent

11. The Act applies in England and Wales only. The civil law in Scotland and Northern Ireland is the responsibility of the devolved Governments.

Commencement

12. The Act will be commenced on 13 April 2015. It will apply when the court is considering liability for alleged acts of negligence or for breaches of a relevant statutory duty which occurred *on or after* the date of commencement.

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