



SUBJECT: Trespassers - Occupiers Liability

RECIPIENTS: All Service areas (including schools)

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How onerous is the duty owed to trespassers?

The recent case of Thomas Buckett v Staffordshire County Council revisited the extent of the duty owed under the Occupiers Liability Act 1984 to those who sustain injury whilst trespassing on property.

The claimant, who at the time of the accident was 16, sustained significant injuries while trespassing on school grounds. Having accessed a flat roof with a group of friends the claimant jumped onto a skylight, falling through the glass.

Despite the court finding in favour of the claimant on the key factual issues – it was foreseeable youths would gain access to the roof and come into close proximity to the skylights – the claim was dismissed. The fundamental finding was that the skylight in its structure, makeup and location was not a danger (despite the panes not being strengthened). **The accident was due to the claimant's own actions in jumping onto the skylight, rather than through fault on the part of the school.**

The decision is an interesting one when considered alongside the contrary outcome reached in the previous case of Young v Kent County Council, despite broadly similar facts. Perhaps an indication of a shift in approach of the courts – a decision in these times of austerity to reflect an appreciation of the limited resources now available to schools and local authorities?

If you require further assistance or clarification on the subject please contact:

Corporate Health & Safety Advisers (see George section: Corporate > Information for Working > Risk Management > H&S Advisers)