

SENSE & DEFENSIBILITY

An update on recent legal decisions and what
you need to know.

Sophia Reed, AIM

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- What's new? (apart from me!)
- Occupiers' Liability & Trespassers
- What do you need to know?
- FAQs
- Discussion



- Documentation, documentation, documentation!
 - Risk Assessments
 - Relevant documents
 - Contemporaneous information
 - Witness details and statements
 - Photographs and plans

THE IMPORTANCE OF RISK ASSESSMENTS!

- *Stewart v Lewisham and Greenwich NHS Trust* [2007] EWCA Civ 2091
- Midwife case involving a lifting injury
- No detailed risk assessment
- The effect of this on the ability to defend
- Court of Appeal decision
- What does this mean for you?

- The extent to which the defendant, when carrying out a beneficial service to the local community, was required to have systems in place to keep visitors reasonably safe.
- *Dingle v Cleves Academy Trust*, Staines County Court, (District Judge McCullough), 27-29 November 2017
 - The facts
 - The system
 - The duty of care
 - The decision
 - What this means for you as an occupier



COOK V SWANSEA CITY COUNCIL (2017)

Icy public car park which was unmanned.

Reactive system was held to be adequate to discharge the duty of care.

“it would be unreasonable to impose a duty on them to grit unmanned car parks whenever icy conditions were reported for that day”

No previous incidents or reports.

Responsibility on the public to take care in adverse conditions too.



- *Spearman (a protected party proceeding by his brother and litigation friend) v Royal United Bath Hospitals NHS Foundation Trust* [2017] EWHC 3027 (QB)
- The law on trespassers
- State of mind
- Meaning of “trespasser”
- Duty of care
- What this means for you

QUESTIONS???

