Case study – Care home slip

Set in 100 acres of beautiful, unspoiled countryside, a registered charity providing residential care, supported accommodation and day services for people living with learning difficulties, received a claim from a support worker following a slip while walking.

Slip in the woods

The support worker, the claimant, was assisting a resident to walk through an area of woodland when, she claims, her foot went down a rabbit hole, resulting in a fall that caused injuries to her back and ankle. Her representatives cited Workplace Regulations and alleged that the "traffic route" was not kept free from obstructions and was therefore likely to cause a trip, slip or fall.

They suggested that the care home had not performed a risk assessment of the woodland or route taken and had therefore asked the employee to undertake a task that showed little regard for her health and safety, which directly resulted in the injuries she sustained.

Despite the lack of witnesses to corroborate the employee's version of events a claim was initially submitted for damages and various other costs totalling £34,000.

Robust defence

The interesting aspect of this claim is the claimant's attempt to expand the provisions of the Workplace Regulations and its definition of a traffic route to include woodland, which in this case would have required our client to inspect some 50 acres.

A successful claim would have been extremely detrimental to our customer and indeed have wider implications for all woodland owners. As a result at Ecclesiastical we immediately felt this claim should be robustly defended.

At Trial the Judge in this case concluded that the claimant was being unreasonable given that it was quite common to encounter rabbit holes when travelling through woodland.

Furthermore, he dismissed the suggestion that it was a breach of the Workplace Regulations as it was not a defined pedestrian traffic route and that it would be a step too far to impose liability on an employer to instigate a system of inspection, or try to fill in rabbit holes in a rural environment. This would have denied residents the opportunity to lead an independent and normal life – the very ethos of the charity concerned.

The Court found in our customer's favour and ordered the claimant to pay our defence costs in full.

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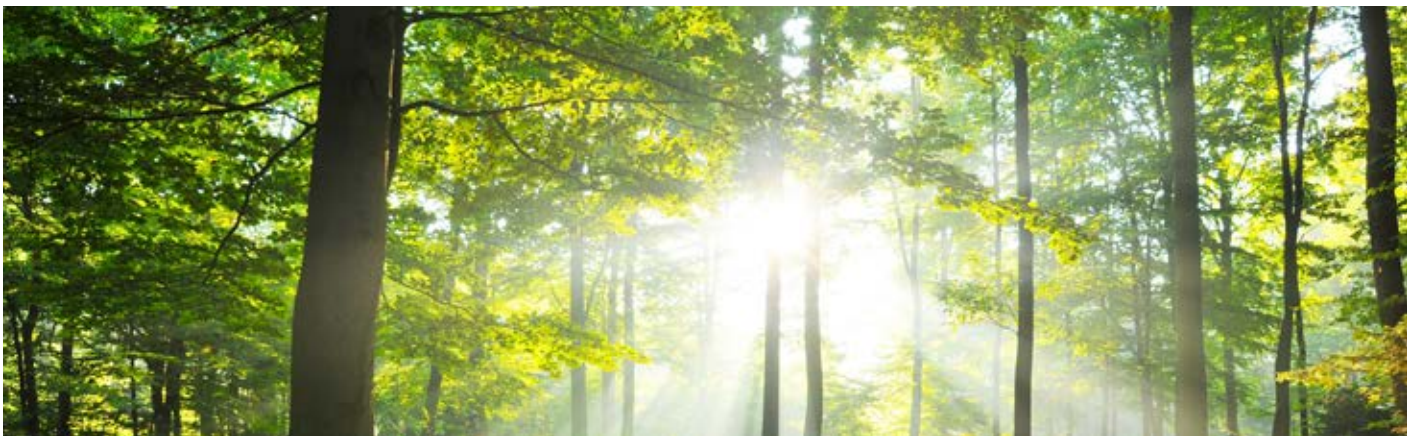

Going the extra mile

When Ecclesiastical received this claim we knew it had to be defended and a dedicated claims handler was allocated to the case.

Carol O'Donnell, Specialist Claims Consultant explains:

"This was a relatively low value claim where after our denial of liability the claimant made an offer to settle of £6000 in respect of damages. If we had been unsuccessful at Trial we could have been looking at costs in the region of £50,000 so there was a risk to us defending this claim. However, we felt the duty to risk assess woodland areas and/or take prohibitive action was too onerous a duty for our customer and therefore felt it was imperative it was defended. The court agreed and we have avoided the implications in terms of risk assessments and management of rural environments that an adverse judgement would have brought, not only for our customer but for all occupiers of such land."

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