



Pearce Community Centre: potential liability for damage and injury

Who can be liable?

1. Persons classed as 'occupiers' under the common law and *Civil Law (Wrongs) Act 2002* (ACT)

- Any person who exercises enough control over an area such that they have some capacity to prevent damage or injury to entrants is considered to be an 'occupier' of that area.
- A person can be an occupier of an area even if they do not own it or occupy it under formal documentation (like a lease).
- There can be multiple occupiers of any given area – a landlord, tenant and building manager may each be an occupier and their responsibilities will co-exist.

2. 'Persons with management and control of a workplace' (a **PMC**) under WHS legislation

- A PMC of a workplace (which includes a place where voluntary work is carried out) can be liable under WHS legislation if they are conducting a business or undertaking (whether for profit or not) and employ at least one person.

What must occupiers and PMCs do?

Take 'reasonable care' and do what is 'reasonably practicable' to avoid injury or damage to any person on any property which they own, inhabit or use

- Occupiers must take all care that is reasonable in the circumstances to ensure that no one suffers injury or damage because of the state of that property.
- PMCs must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person.

Examples of what constitutes 'reasonable care' and is considered to be 'reasonably practicable' include:

- Not deliberately or carelessly causing risks
- Actively monitoring for potential risks
- Warning entrants about known risks
- Carrying out repairs and maintenance as soon as possible
- Reporting issues to the relevant persons or authorities as soon as possible
- Considering the particular needs of vulnerable entrants onto property

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