



Ministry of JUSTICE

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The Hon Nicholas Soames MP
House of Commons
London SW1A 0AA

Our ref: MC268715

28 February 2010

Dear Nick

**The Lord Teviot, Oak Hall Park Residents' Association, 28 Hazel Grove,
Burgess Hill, West Sussex, RH15 0BY**

Thank you for your letter of 4 February, to Jack Straw, on behalf of your constituent Lord Teviot, who is concerned about the risk of litigation caused by clearing snow during adverse weather. I am replying as the Minister responsible for civil law and justice issues.

Thank you for bringing Lord Teviot's concerns to my attention. I hope it is helpful if I outline the general law in this area. The prospects of a person who volunteers to clear snow from a pavement being successfully sued for damages by a person who subsequently slips on the cleared area and is injured are very small.

A snow-cleaver does have a duty to anyone who passes along the pavement to do the clearing with reasonable care so as not to create a new and worse risk, but the only person who is at risk of being sued is a person who clears the snow so badly that things are worse than before and that common sense would indicate this was so. A job done very badly indeed which makes the pavement clearly more dangerous than before might give rise to a risk if a person who would not have slipped otherwise slips and is injured as a direct result of that more dangerous state of affairs.

[An example might be a person who clears a path with water in freezing temperatures and pays no attention at all to the water left behind which freezes and creates slippery ice. Any reasonable person taking reasonable care would be able to see that that creates a risk; but even then, a person who slips and is injured would have to prove that he or she slipped as a result of the risk that was created and not for another reason (such as his or her own carelessness). If, however, a person clears snow with a shovel and brush and leaves the pavement clear, it is difficult to see how a claim could be launched with any prospect of success.]

If ice formed because of fresh snowfall following the clearing which partly melts and re-freezes so that the area becomes more dangerous than the surrounding area, a person who slips on the ice will be hard pushed to prove that the reason for the slip was the clearing of the pavement rather than the later new snow and conditions leading to ice. A person who slips on a cleared area which is less dangerous than the surrounding cleared area will be even more hard pushed to prove that the slip occurred because of the snow being cleared rather than because the area generally was slippery.



THE HON NICHOLAS SOAMES, MP
MEMBER OF PARLIAMENT FOR MID SUSSEX
HOUSE OF COMMONS
LONDON
SW1A 0AA

10th March 2010

Dear Lord Teviot

Further to my letter of the 4th February and the representations that I made on behalf of the Oak Hall Park Residents' Association, about the risk of litigation caused by clearing snow during adverse weather, I have received the enclosed response from Bridget Prentice MP, Parliamentary Under Secretary of State for Justice.

I am sending a copy of this correspondence to the Town Clerk and to the Leader of Mid Sussex District Council as MSDC is currently compiling a 'Lessons Learnt' report following the severe weather in December and January.

Thank you very much for taking the trouble to get in touch.

Best wishes.

Enc

Cc Councillor Garry Wall and David Carden

The Lord Teviot,
Oak Hall Park Residents Association,
28 Hazel Grove,
Burgess Hill,
West Sussex. RH15 0BY

BURGESS HILL TOWN COUNCIL	
PASSED TO:	DAC
RECEIVED:	11 MAR 2010
ACTION:	
DATE:	

Lord Teviot also refers to Lord Justice Jackson's report into the costs of civil litigation. The Master of the Rolls appointed Lord Justice Jackson to undertake an independent review of the rules and principles governing the costs of civil litigation and to make recommendations that promote access to justice at a proportionate cost. Sir Rupert commenced this review in 2009 and, following intensive information gathering and consultation with stakeholders, published his final report on 14 January 2010. The report and further details of the review can be found at http://www.judiciary.gov.uk/about_judiciary/cost-review/index.htm

This wide ranging report sets out what Sir Rupert sees as the reasons for high legal costs in particular types of litigation. He makes a broad range of significant recommendations to reduce costs. This includes recommendations relating to fixed recoverable costs in cases valued up to £25,000 (including public liability claims and some other recommendations aimed specifically at personal injury claims).

Sir Rupert has undertaken an independent review. We are committed to addressing high costs in civil litigation while ensuring appropriate access to justice. However, many of Sir Rupert's proposals will require further detailed analysis before they can be progressed - in particular to determine the impact on various groups, the potential costs savings which could be achieved and what further consultation may be necessary. It is inevitable, given the scale of his review and the number of recommendations Sir Rupert makes, that this analytical process will take some time. Nevertheless, we will complete our analysis as soon as possible and we will then announce a more detailed timetable for reform. We will also give notice of the consultation which will accompany any Government proposals for reform, so that all stakeholders have a proper opportunity to comment on the detail of the proposals. I urge Lord Teviot to ensure that their views are expressed in any future Government consultation on proposals for reform in relation to personal injury claims.

I hope this information is helpful and I enclose a copy of this letter for you to send to Lord Teviot should you wish to do so.


BRIDGET PRENTICE