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## Understanding the duty of care in personal injury claims in Australia

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In Tort Law, the duty of care is stated as the legal responsibilities and duties of the professionals or service providers to perform/practise in a responsible manner to avoid harm to others. This duty can be either a professional **duty of care** such as medical practitioner's responsibility to the patients, or a businesses' duties to the customers. The content of "business responsibilities" can be extended to many branches of social responsibilities. As an example, educational institutions have the duty to provide a safe environment to the students to provide any harm, just as a barista has the same responsibility to follow necessary standards to avoid any adverse outcome. These standards are defined as reasonable peer's actions in similar situations.

Negligence can arise in every workplace as a result of a reckless employer, supervisor or another employee. More complex cases require more in-depth research and investigations. In Australia, businesses and workplaces should follow the necessary procedure to provide safety and perform their duties of care without any exceptions. In workplaces, employers lack of taking an action to provide the workers with sufficient and up-to-date work equipment is determined as negligence whilst negligence can appear as lack of taking preventive measures in restaurants or in coffeehouses. Insufficient workplace equipment can lead to severe injuries such due to slip and fall accidents, COVID-19 exposure and major trauma injuries from falling objects. Alternatively, some injuries and illnesses might take time to develop or progress. Such as asbestosis and silicosis. Workers suffering from dust disease can make silica dust claims or asbestosis dust claims.

### Duty of care in workplaces to avoid permanent and temporary injuries and illnesses

As mentioned, it is the employer's legal obligation to provide a safe work environment for the workers. If this duty is breached, sooner or later, adverse events can appear and the workers suffering the consequences of this negligence can take legal action. Some of the examples of workplace negligence might be:

- Insufficient and outdated workplace equipment

Items that are being used regularly and equipment that includes electrical circuits have a lifespan that will fail to function as expected once the lifespan exceeds. For this reason, the employer should make sure the equipment is maintained properly, updated and suitable to the current standards.

- Ignored risks and failure to take precautions

Wet surface in the workplace can lead to injuries due to falling from multiple floors. Although it sounds like a worst-case-scenario, fall injuries end up with hospitalisation and permanent damages are the most common work-related accidents occur in construction yards.

- Overworking

Workers should exceed their limits to work more than a human body can stand. The muscular system recovers with proper rest and overloading can cause serious and severe injuries even from a hit taken to the muscles.

### **The professional duty of care, medical negligence and civil liability**

Duty of care exists in business-customer relations as well as in professional competency. A businesses duty of care is to avoid actions and omissions that can potentially cause harm to their customers or simply, lack of taking an action to eliminate risk factors.

- Medical negligence

Medical professionals are sworn to behave in a manner to provide the best possible treatment to their patients. Intentionally or unintentionally, an accident can happen and the practitioner at duty can be liable for the harm. It is expected from the professionals to follow and stick to the accepted standards and the procedure to prevent adverse situations. These accidents might appear during the administration process of the medications, prescriptions, surgeries and anaesthesia process.

- Lack of cautions and risk awareness

Just as employers, medical professionals and other civilians, the businesses are also expected to act in a responsible manner to prevent harm. Simple yet effective solutions can eliminate any risk and if not, the customers can at least be aware of the hazards. As an example, if the water spillages in the business environment seem to last more than a small amount of time, the business is expected to make the customers/clients aware of these hazards. The hazardous area can be surrounded by duct tapes and the area should be isolated from use.

### **Conclusion**

These risk factors occur from obvious risk elements and are actually avoidable with proper business management. These accidents are not coming out of nowhere. If the employer, service provider or the medical professional ignores these risks, they might face harsh penalties as a result of their negligence. In this case, the party who is suffering these consequences can take legal action and recover their loss by way of negligence compensation. These claims are notorious for being complex and frustrating, however, you can easily withstand with a personal injury lawyer by your side. [No win no fee lawyers](#) can aid you during the process with a guarantee that nothing will be charged if the compensation cannot be received.

*Photo by [Tingey Injury Law Firm](#) on [Unsplash](#)*

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