

I tripped and fell on a footpath; can I make a claim?

If you have tripped and fallen on a footpath, in a carpark, alley or similar and suffered personal injury, loss and damage as a result of the fall then, in certain circumstances, you may have an entitlement to **public liability compensation.**

If the accident occurred on private property like a footpath in a supermarket carpark or the footpath in a privately owned carpark or walkway you may have a claim.

If the accident occurred on public property such as a footpath belonging to your local city council, the answer is more complicated. The Civil Liability Act 1936 was amended in 2004 so that from 1 April 2004 pursuant to Section 42 of the Civil Liability Act 1936 (SA) road authorities, which include councils are not liable in negligence for a failure to maintain, repair or renew a road or take any other action to avoid or reduce the risk of harm that results from a failure to maintain, repair or renew a road.

The definition of road includes a street, road or thoroughfare to which public access is available to vehicles or pedestrians (or both) and includes footpaths, bridges, alleys, laneways, carparks and kerbs.

The changes made in 2004 provided immunity to councils from any claim arising out of their failure to properly maintain or repair footpaths. What this means is that if you trip on a footpath, no matter how serious your injuries may be, you would not have a claim for compensation against the council.

There are however a couple of circumstances where the injury may give rise to a claim:

1. Action by the council caused damage to the footpath or for the footpath to become unsafe in some way and there are no warning signs erected by the council with respect to the dangerous state of the footpath. For example if the council arranged for repairs or maintenance to the footpath which were left in an unsafe state and you tripped and fell then you may have a potential claim.
2. The council, despite other incidents and complaints made by residents with respect to the same issue regarding a footpath which resulted in your injury, have failed to take any action to repair the footpath or taken steps to warn users of the footpath of the hazardous condition of the footpath.

This restriction does not apply to a privately owned footpath or roadway such as a carpark which is subject to the usual laws with respect to occupiers liability. You may be entitled to compensation in circumstances where the owner of the property knew or ought to have known that the state of the footpath was dangerous and could cause injury and failed to take action to reduce the risk of harm.

In any case involving a trip and fall it is expected that the injured person has taken due care and an allegation of contributory negligence on the part of the injured person may be made depending on the circumstances of the fall.

If you or someone you know has had a fall or tripped over you can contact our personal injury team to see whether you may be entitled to **public liability compensation.**

> If you've tripped and fallen on a footpath, in a carpark, alley or similar and suffered an injury, you may be entitled to compensation.

The information in this article is general in nature and was accurate at the time of publication. Laws and circumstances can change. For advice specific to your situation, please seek professional legal advice.