Robson v Hallett (1967)

Entry in order to communicate

- A police sergeant exits D's
- Two police constables enter a fight follows
- Held that police officers had implied license to enter

Police and Criminal

Evidence Act (PACE)

grants the police the

with a warrant

right to enter premises

- Old, rotten, abandoned boat, which was not dangerous if not taken away by the council property and gets punched Two teenage boys went there to
 - play on it and repair it

Jolley v Sutton LBC (2001)

- One suffered a spinal injury
- Council was liable and owned a duty of care as it was interesting for children to go there, and therefore this was implied permission

Lowery v Walker (1911)

Repeated visitors

- D knew trespassing occurred on his filed (had been occurring for many years; D hadn't prevented that from • happening), so he put a wild horse there
- C was injured by this horse when using a short curt across D's premises
- D was aware the horse was dangerous and was liable
- Whilst C didn't have express permission to be on the land, a license was implied through the repeated trespass and D's acquiescence

Pearson v Coleman Bros (1948)

- A child visiting the circus passed the lion's running, where it was mauled to death
- Circus was liable in negligence = child was an invitee and it was assumed it would not follow warnings

Limits as to an area

Visitor to a museum,

who lingers after closing

Limits as to time

D ignored warning not to swim in a quarry, which was to be turned into a lake Council had no liability to C

Tomlinson v Congleton

BC (2004)

Risk arose from C's own actions, who voluntarily engaged in this risk

Limits as to purpose

If lawful visitors breach any of the following limits, then they become trespassers

Someone who enters premises without an invitation and either whose presence is unknown to the occupier, or, if known, is objected to by the occupier in some actual practical fashion e.g. sign, a locked gate or a verbal warning

Who is considered a trespasser?

> An occupier of premises owes a duty of care to all his lawful visitors [s.2(1)]

> > An adult visitor is owed duty of care; take such care in all circumstances so that it is reasonable to see that the visitor will be reasonably safe in using the premises for when he is invited to be there [s.2(2)]

Who is considered

a lawful visitor?

Doctrine of allurement

Statutory powers of entry

Occupiers' **Liability Act 1957**

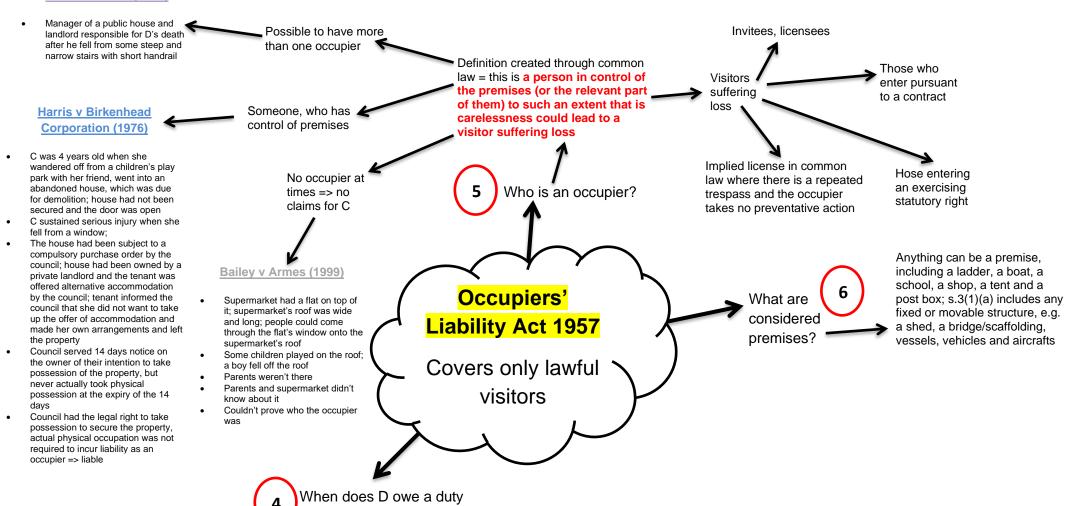
Covers only lawful visitors

C must show that a duty of care exists and D has Breached that duty, which caused damage, i.e. negligence must be established first

The occupier should act only with reasonable care and he should ensure that his visitor is reasonably safe



Wheat v Lacon (1966)



Proof of 3-stage negligence

s.2(1) = an occupier owes a duty of care to all his lawful visitors

s.2(2) = taking such care for adult visitors in the circumstances so they can be reasonably safe on the premises for the purpose of being invited there => reasonable care = reasonable safety

of care and to whom?



<u>Laverton v Kiapasha Takeaway</u> Supreme (2002)

- D was drunk and slipped on a shop's wet floor
- Normally, the floor was mopped 6-7 times, but there were 30 people in it + shop had slip-resistant tiles
- D wasn't guilty as they had taken reasonable measures as they'd done all that was reasonably possible

Dean and and Chapter of Rochester Cathedral v Debell (2016)

- Mr Debell tripped over a raised piece of concrete; shoulder injury and hernia
- Rochester Cathedral not liable as a risk is only reasonably foreseeable only when there is a real source of danger; tripping is an everyday occurrence

s.2.(2) = duty owned; reasonable

circumstances to see that the

Glasgow Corporation v Taylor (1922)

- C (appellant0 owned public gardens where various plants and shrubs grew
- A 7-year-old boy at some poisonous berries and died; no fence or warnings
- C was liable; aware of the poisonous berries and that children were entitled to go onto the land

Further precautions to protect a child

Phipps v Rochester Corporation (1955)

- 2 unaccompanied young children; one of them was fell into a trench and got injured
- D not lable as an occupier is entitled to assume that prudent parents would not allow their children to go unaccompanied to unsafe places

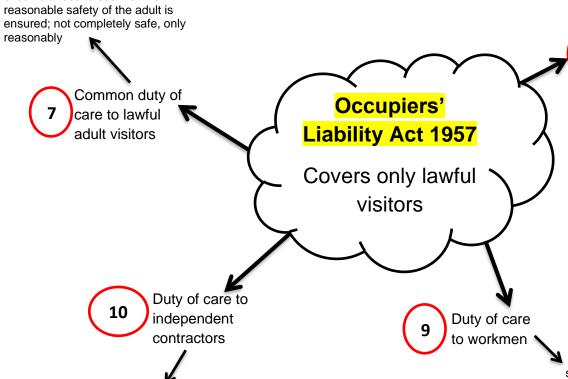
Appropriate precautions, but parents must take of their children too

s.2(3)(a) = an occupier must be prepared for children to be less careful tan others

No liability if damage is not foreseeable (if an allurement exists)

Jolley v Sutton LBC (2001)

- Old, rotten, abandoned boat, which was not dangerous if not taken away by the council
- Two teenage boys went there to play on it and repair it
- One suffered a spinal injury
- Council was liable and owned a duty of care as it was interesting for children to go there, and therefore this was implied permission



- Reasonable for an occupier to giver contractor work [Haseldine v Daws (1941)]
- 2) Contractor hired was competent to carry out work [Bottomly v Todmorden Cricket Club (2003)]
- 3) Occupier checked to see if work had been properly done [Woodward v Mayor of Hastings (1945)]

s.2(3)(b) = protect special visitors against risks within own premises

Duty of care to children

Roles v Nathan (1963)

- Chimney sweepers died of carbon dioxide poisoning while unblocking D's chimney
- D was not liable as Cs were experts



Proof of causation and remoteness of damage: D's actions caused the loss and any loss is not too remote a consequence of the negligence

Factual: [Barnett v Chelsea and Kensington HMC (1968)] [McGhee v NCB (1972)] [Wilsher v EEHA (19870] = check the details of all cases in the 'Negligence' file in 'Learning materials'

Legal (not too remote): [The Wagon Mound (1961)] [Hughes v Lrod Advocate (1964)]

Egg shell rule: [Smith v Leech Brain and Co Ltd (1961)] Dischargement of a duty: occupier needs to shoe same standard of Rae v Mars (1990) care as for ordinary negligence; Where danger is would the average competent extreme/unusual, it is not occupier have acted in the same enough there to be a warning for it: a barrier or an additional **Occupiers**' way in the same or similar notice should be placed circumstances? (test) **Liability Act 1957** Warning notices = express/implied reasonable Covers only lawful warnings, e.g. fence or locked door/ warning or visitors danger sign [Rae v Mars] Defences to OL 13 Damages are the remedy for OL Exclusion clauses s.2(1) Consent Contributory = exclusion of liability negligence s.2(1) Unfair Contract Terms Act 1977 = s.65



does not remove responsibility for personal injury o death from negligence