

**Employers Liability:**

Injuries in the workplace.  
Now one of the most important heads of negligence.  
Are other means of getting compensation than tort.

**3 Types of employers liability**

**(1) Primary/Personal**

**(2) Vicarious**

**(3) Statutory**

**(1) Primary/Personal Liability.**

**O - Does the employer owe a personal duty of care?**

A non-delegable personal duty (under c.law) to his employees to see that reasonable care is taken of them.

**Non-delegable:**

employer can delegate the duty but cannot delegate his responsibility & liability attached to his duty

*Wilson and Clyde Coal v English*

**Duty is owed to individual employees:**

each individual employee – with respect to their differences

*Paris v Stepney*

**Establishing a Duty of Care is Met:**

4 Forms from *Wilson* – Not Strict – Just Guideline.  
Must have...

**(1) Competent Staff.**

Must employ 'reasonably competent' employees.

Employer must take action if employees act in a way which is dangerous to the others:

*Hudson v Ridge Manufacturing*

**(2) Adequate Materials & Equipment.**

Must take 'reasonable care' to provide proper appliances, maintain their condition.

**Defective Goods:**

Employer not liable for injuries caused by defective goods – as long as they took reasonable care.

*Davie v New Merton Board Mills*

decision reversed by...

**s.1 Employers' Liability (Defective Goods) Act 1969**  
“(1) (a) an employee suffers personal injury in the course of his employment in consequence of a defect in equipment provided by his employer for the purposes of the employers business; and  
(b) the defect is attributable wholly or partly to the fault of a third party (whether identifiable or not), the injury shall be deemed to be also attributable to negligence on the part of the employer (whether or not he is liable)...”

**'equipment'???:**

Courts given it a broad interpretation.

Even a ship amounts to equipment:

*Coltman v Bibby Tankers*

**(3) Safe System of Work**

employer must..

**Give employee proper instructions & warnings against dangers.**

*General Cleaning Contractors v Christmas*

if they don't follow them – not liable:

*Wilson v Tyneside Window Cleaning*

**Be aware of employees foreseeable carelessness.**

**Be aware of employees Mental Health**

(questionable in light of *White*)

*Walker v Northumberland*

*Barber v Somerset*

Common Practices in Industries will be relevant.

*Thompson v Smiths Ship Repairers*

**(4) Safe Place of Work.**

Must take 'reasonable steps' to see place of work is reasonably safe.

*Latimer v AEC Ltd*

*Wilson v Tyneside Window Cleaning*

Even amount to a duty to dismiss the employee – *Coxall v Goodyear*

## (2) Vicarious Liability

### Responsible on someone else's behalf – Without Fault.

*eg. 1 employee commits a tort against another – the employer is held responsible as well as first defendant.*

#### Justifications:

Convenience.

Employers more likely to be able to afford it.

#### C Must be an Employee:

Several Tests all for Guidance only. No one test is paramount.

#### (a) Integral Part of the Business

*Stevenson Jordan & Harrison v  
McDonald & Evans*

#### (b) Terms of the contract

*Ferguson v Dawson*

#### (c) Control

how much control the employers have over the workers.

**More control – more likely to be employees.**

Problematic – difficult in skilled professions.

#### (d) Relationship as a Whole.

**Modern Approach: long list of factors:**

*are they part & parcel of business?*

*Are they integral?*

*Are they working for their own benefit?*

*Who's equipment are they using?*

*Intentions of the parties?*

#### (e) Temporary Employee

Who is responsible for temporary employees?

The permanent employer?

Or the temporary employer?

Or Both?

*Viasystems Ltd v Thermal Transfer Ltd*

Not always both, depends upon control again:

*Hawley v Luminar Leisure Ltd*

## (3) Statutory Liability.