

What is Professional Negligence?

Professional negligence is different from other kinds of negligence because its main focus is a professional's duty of care when carrying out their work.

If you suffer either damages or financial loss and you can prove it is as a result of a breach of duty of care, then you may have a [claim for professional negligence](#).

What is Professional Negligence Law?

Broadly, **professional negligence** occurs where a **professional** fails to perform their responsibilities to the required standard. A claim may be based on one or more of the following:

- Breach of a contractual term (express or implied).
- Breach of duty of care owed in the **tort of negligence**.
- Breach of **fiduciary duty**.
- Breach of statutory duty.

These claims may be brought by the **professional's** client, but third parties may also be able to bring an action against the **professional**, depending on the circumstances.

Professional negligence is a part of negligence under the [English law of tort](#). This is a common law legal system - a branch of laws that impose civil liability for breaches of obligations.

Professional negligence occurs when someone causes loss to another person due to their own carelessness, recklessness or where the service provided is substandard and causes loss or damage as a direct consequence.

What is Meant by Professional Negligence?

If you receive a professional service, you expect the professional instructed to exercise this reasonable degree of care or skill. When they don't, they may have failed in their duty of care.

In a professional negligence claim, the defendant (the person against whom the claim is made) is seen as a professional within their industry. Therefore, they should have skills and abilities beyond someone outside of the industry.

The claim seeks to prove that the standard of service the professional has provided falls below the standard of care expected and carried out by similar professionals with the same skills and abilities.

Examples of Professional Negligence

As an area of law, [professional negligence](#) covers different industries. It can occur in various workplaces and when people use the services of professionals to carry out work on their behalf.

It can apply to builders, architects, surveyors, accountants, personal trainers and solicitors, just to name a few.

Negligence in medical settings, where people suffer personal injuries during medical procedures or suffer injury resulting from misdiagnoses, falls under the law of Medical Negligence and differs from that of Professional Negligence.

Here are some examples of professional negligence involving different industries and situations:

- Your business suffers a serious and irretrievable data loss due to your IT provider's errors
- You receive poor financial advice that doesn't alert you to your tax liabilities, which results in you facing an unprecedented tax bill and penalties from HMRC
- You're living in a building that is unsafe and harmful to your health due to the poor workmanship of a builder
- You're a personal trainer but you fail to ask a new client about any previous injuries, and this results in them suffering an injury during a training session.

Professional negligence impacts both claimants and defendants. Professionals offering their services need to be aware of the consequences of providing a duty of care towards their customers or clients.

Other examples of professional negligence include breach of confidentiality, providing poor business strategy recommendations, failing to advise about tax relief available or failing to identify structural issues with a property.

What is the Difference between Negligence and Professional Negligence?

In theory, anyone can be negligent if they don't consider the consequences of their actions. But when this negligence involves a professional, it means they have failed to exercise a reasonable degree of care or skill.

When someone hires a professional, they expect a higher duty of care because the professional has specialised skills or knowledge. Failing to meet reasonable standards can mean the professional has breached their duty of care towards their client.

Various factors will determine whether a claim meets the professional negligence conditions:

- o Duty of care – the claimant must first prove they were owed a duty of care by the professional
- o Breach of duty of care – having established that there was a duty of care, the claimant must prove that the professional breached this duty by what they did or what they did not do
- o Causation and loss – the claimant must show they suffered damage or loss resulting from the breach and that they wouldn't have suffered the same had the breach not occurred.

Is Negligence a Professional Liability?

If a claimant can demonstrate that a professional's negligent action/failure to act has caused the claimant damage or loss, then they can be held professionally liable for this.

Professionals across a diverse range of disciplines and jobs take out professional indemnity insurance to protect them against claims for loss or damage made by clients.

Some professions have professional bodies or regulators who require them to enforce this kind of legal protection. These professions include:

- o Solicitors
- o Accountants
- o Financial advisers
- o Architects
- o Chartered surveyors
- o Other professionals.

Other professionals may also choose to take out professional liability insurance to protect themselves should claims for negligence be made against them.

Typically, this covers professionals against:

- o Incorrect advice or recommendations
- o Breaches in professional codes of conduct
- o Loss of documents
- o Breaches of confidentiality.

However, you can still make a professional negligence claim against someone who has indemnity insurance and the conditions for proving the claim remain the same.

For more information about professional negligence claims, please call us, or complete our [online contact form](#), and we will be in touch as soon as possible.

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