

Product Liabilities for Retailers

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If a product you've sold causes injury to the purchaser or another user, or damage to their property, you could face a claim for damages and compensation. A robust risk management approach, combined with products liability insurance, can protect you.



Product Liabilities for Retailers



Introduction

Retailers face the risk of a claim under the Consumer Protection Act 1987 (CPA) if a product has caused injury or damage to property. Previously, only a common law right to sue for injury or damage caused by a product existed.

The Consumer Protection Act 1987 ([CPA](#))

The CPA was introduced with the aim of making it easier and fairer for an injured person to secure compensation. To that end it established a new legal right allowing anyone to bring an action for damages after being injured, or suffering damage to their property, by a defective product. The CPA does not cover the sale of food.

The CPA established a common approach to product liability across the European Community. Its main provisions include:

- The introduction of strict liability, removing the need for the injured person or persons to prove negligence
- The injured person can sue anyone in the supply chain – including the manufacturer, the own brander, and the importer (although in the majority of cases, they will sue the person who sold them the product)
- **Retailers may be able to avoid liability if they can prove that they didn't alter or modify the product, and if they are able to identify other people in the supply chain**
- Enforcing bodies can:
 - seize goods
 - issue notices prohibiting the sale of goods
 - apply for an order allowing them to seize and destroy goods
 - force the implementation of a product recall campaign

Products Liability Insurance

Products liability insurance provides protection against claims made under the CPA. It can cover the costs of defending claims and paying any compensation that may be agreed or awarded by a court. However, it will not cover any fines resulting from prosecution for breaches of product safety legislation.

There is no legal requirement to have products liability insurance – but without it, one claim could force an organisation out of business. Products liability insurance is usually purchased via an insurance broker, as part of a package that includes public liability insurance. A broker can advise you on what insurance you need, in respect of the type and level of cover, and help you obtain it from a suitable and financially stable insurance company.

Even if you have insurance, it's still important to try to prevent liability claims. Accidents and the subsequent publicity surrounding a claim may result in damage to your reputation and loss of customers. This can have long-term financial consequences for your business – costs that are not recoverable as part of a products liability policy.

Minimising your Liabilities

As a retailer, your liabilities under the CPA are limited – but there are a number of steps you still need to take:

- Purchase your stock from a reputable supplier – to reduce the chance of an accident occurring
- Keep good records – so that you can quickly identify the supplier or manufacturer if you receive a claim
- Consider whether you need to carry out assembly, maintenance, or pre-delivery inspections – it may only serve to increase your liabilities
- Be aware that importing goods can increase your liabilities – the act of importing into the EU means that you take on the responsibilities of the manufacturer
- Carry out a risk assessment – to identify and control the risks to your customers

Assembly, Servicing and Working on Products

The risk of being involved in a products liability claim is increased if you carry out any form of assembly or pre-delivery inspection, or if you undertake maintenance or servicing. If you choose to carry out such activities, you must make sure that the employees who complete the work are trained and competent. You may also need to collect and retain more records.

In the Case of an Accident or Claim

If a customer suffers an accident, it's prudent to take suitable steps to reduce the impact:

1. Express concern, apologise and provide reassurance, but do not admit liability. Avoid making comments like 'it's all our fault' or 'this is the Xth time this has happened'
2. Consider replacing the product and keep the alleged faulty or dangerous item for inspection
3. If you receive correspondence from the customer or a solicitor acting on their behalf, forward it to your broker/insurer immediately
4. Commence a search of your records to identify:
 - When you received the particular product that is alleged to have caused the accident or injury
 - The supplier or wholesaler
 - The batch of products involved
5. Consider contacting other customers to reduce the risk of further accident or injury. It may be wise to get in touch with the supplier or manufacturer before making a product recall, as other retailers may be affected

Defending a Claim

After a claim has been made, your insurer will take over the handling of the incident and deal with any correspondence. Their first step will be to try to 'pass-on' the claim to the suppliers, the wholesaler or distributor or, ideally, the manufacturer. In order to do this, they will need detailed records of the deliveries you've received, including dates and quantities.

Summary

1. Undertake risk assessments of your products and business
2. Identify who could be harmed and how, and the measures you should take to prevent this
3. Minimise any risks arising from activities such as assembly or servicing
4. Establish robust procedures for recording relevant information about deliveries and sales
5. Record all accidents involving customers

Checklist

A generic Product Liabilities for Retailers checklist is presented in Appendix 1 which can be tailored to your own organisation.

Specialist Partner Solutions

Aviva Risk Management Solutions can offer access to a wide range of risk management products and services at preferential rates via our network of Specialist Partners.

For more information please visit:

[Aviva Risk Management Solutions – Specialist Partners](#)

Sources and Useful Links

- [GOV.UK – Guidance on Product Safety Advice for Businesses](#)
- [National Trading Standards UK](#)
- [UK Recall Notice](#)
- [Consumer Protection Act 1987](#)

To find out more, please visit [Aviva Risk Management Solutions](#) or speak to one of our advisors.

Email us at riskadvice@aviva.com or call 0345 366 6666.*

*Calls may be recorded and/or monitored for our joint protection.

Appendix 1 – Product Liabilities for Retailers Checklist



Location	
Date	
Completed by (name and signature)	

	Product Liabilities for Retailers Checklist	Y/N	Comments
1.	Do you purchase your stock from a reputable supplier?		
2.	Do you keep good records so that you can quickly identify the supplier or manufacturer if you receive a claim?		
3.	Do you want or need to carry out assembly, maintenance, or pre-delivery inspections?		
4.	Do you import goods from outside of the EU?		
5.	Have you completed and documented a risk assessment, and implemented appropriate controls?		
6.	Do you carry out assembly, service, or pre-delivery inspection on the products that you supply?		
7.	Are your employees trained and competent to complete this work?		
8.	Do you have documented training and inspection records?		

LOSS PREVENTION STANDARDS

9.	<p>In the event of an accident or claim:</p> <ul style="list-style-type: none"> • Have you taken suitable steps to reduce the impact of the accident or claim? • Have you provided a replacement product? • Have you kept the alleged faulty or dangerous product for inspection? • Have you forwarded all communications from the customer (or the solicitor acting on their behalf) to your broker/insurer? • Have you completed a search of your records to identify: <ul style="list-style-type: none"> ○ when you received the particular product that is alleged to have caused the accident or injury? ○ details of the supplier or wholesaler and the batch of products involved? ○ details of other customers who have products from this batch (contact the supplier or manufacturer before issuing a product recall)? 		
10.	Additional comments:		

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LOSS PREVENTION STANDARDS