

SARAH to the rescue - The Social Action, Responsibility & Heroism Act 2015

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Applies to: England and Wales

On Monday 13 April 2015, the SARAH, or Social Action, Responsibility and Heroism Act 2015 ('the Act'), came into force in England and Wales.

The stated purpose of the Act is to provide a greater degree of reassurance and protection to good samaritans, volunteers and those who may be deterred from participating in socially useful activities due to worries about risk or liability. Interestingly, a national survey by the Centre for Social Research during 2007 found that 47% of people were so deterred.

New requirements

Whilst the explanatory note issued to accompany the Act states that it has not changed the existing framework around claims in negligence and/or breaches of statutory duty, it is difficult to see how this can be correct when the Act now requires a court, when determining whether someone has behaved negligently, to have regard to each of three additional factors. Those are:

1. **Social action** - whether the alleged negligence or breach of duty occurred when the person was acting for the benefit of society or any of its members.
2. **Responsibility** - whether, in carrying out the activity in which the alleged negligence or breach of duty occurred, the person demonstrated a predominantly responsible approach towards protecting the safety or interests of others.
3. **Heroism** - whether the alleged negligence or breach of duty occurred when the person was acting heroically by intervening in an emergency to assist an individual in danger.

Impact

The Act's provisions will be taken into account in relevant claims against individuals, organisations and employers. The government has stated that it 'anticipates the Act will be relevant in a wide range of situations' and is 'intended to give reassurance to people that a court will take full account of the context of their actions in the event that they are sued.'

The Act does not prevent a person from being found negligent if the circumstances of a particular case warrants it, nor does it have any bearing on issues of criminal liability. Despite its laudable intentions, the Act has been subject to harsh criticism for both its brevity and lack of clarity around terms such as 'predominantly responsible' and 'heroically'. When the bill passed through the House of Lords, one peer commented that the Act was 'a text that would barely muster a pass mark in GCSE legal studies. a pitiful creature of a bill.' Another described it as 'of no importance at all. useless.'

It will be interesting to see the impact of the Act in practice, if any, particularly as section 1 of the Compensation Act 2006 already includes very similar provisions which a court may (but not must) take into account when determining any question of negligence.

As with many new pieces of legislation, it will only be as cases pass through the courts and the Act's provisions receive judicial scrutiny that we will learn whether the Act gives rise to any meaningful re-consideration of legal liability relevant to volunteers and good samaritans.

Advice specific to healthcare professionals

Although potential legal liability arising from good samaritan acts is something about which we're regularly asked by healthcare professionals, in practice we have never encountered a UK doctor, paramedic, nurse or other healthcare professional being sued after providing this kind of emergency assistance.

The key principles of our advice to healthcare professionals about such acts are:

- . You have an ethical, professional duty to provide assistance, within the scope of your professional competence, when faced with an emergency situation in or outside of work
- . Remember to still seek the patient's informed consent prior to any treatment
- . Prepare a detailed note of any incident in which you're involved

. Ensure your professional insurance includes cover for good samaritan acts (ideally, anywhere in the world).

Here to help

Should you wish to discuss any issues raised by the Act, please don't hesitate to contact a member of the Shoosmiths' Professional Discipline & Healthcare Regulatory Team at 03700 865722 or professional.discipline@shoosmiths.co.uk

Disclaimer

This document is for informational purposes only and does not constitute legal advice. It is recommended that specific professional advice is sought before acting on any of the information given.

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