



## PainSmith Solicitors Legal Update

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### Safety Glass and The Defective Premises Act 1972

Most agents will be familiar with Part N of the Building Regulations 2000 (as amended) which requires that glazing with which people are at risk of coming into contact must be protected, toughened, or break in a safe manner. These standards apply to new properties built after this standard came into force and they are certainly a standard to which all private landlords should aspire although they are not compulsory.

This position was highlighted by the Court of Appeal in a decision handed down on 7 February 2007 in the case of *Alker v Collingwood Housing Association*.

In this case the tenant had suffered an injury to her arm when a glass panel on her front door broke. This panel was not made of safety glass. The tenant brought a claim against her landlord in the Manchester County Court under s4 of the Defective Premises Act 1972. This section imposes a duty on landlords to take reasonable care to protect tenants from personal injury caused by a deficiency in the repair or maintenance of the premises. The Recorder in Manchester County Court accepted the tenant's argument and ruled accordingly, the landlord appealed.

The Court of Appeal held that while it had been accepted since 1963 that the type of glass used was hazardous in doors this did not mean that the landlord was liable. The glass itself was not broken or in disrepair prior to the accident and it was an unjustifiable extension of the Act to equate a duty to repair or maintain with a duty to keep a tenant safe. The appeal was accordingly allowed.

In practice this decision clarifies the position regarding s4 of the Defective Premises Act 1972. It has often been a matter for concern for landlords and agents that items which are otherwise in repair may require replacing under this legislation because they do not meet modern safety standards. This appears not to be the case.

It should be noted, however, that under the Housing Health and Safety Rating System, introduced by Part I of the Housing Act 2004, Collision and Entrapment is one of the 29 hazard profiles and it would be legitimate for a Local Authority to serve an order requiring the fitting of safety glass in doors and the like under this hazard profile.

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