

Product Liability
Civil Claims

Miles A Alexander

Product Liability Civil Claims

- Negligence
- Consumer Protection Act 1987
- Damages
- The European dimension
- UK vs US

Product Safety vs Product Liability

- Different objectives
- No direct link
- Safety vs defect

Negligence

- Fault based
- Duty of care - breach - damage
- Causation and remoteness

Consumer Protection Act 1987

- Implements the Product Liability Directive
- Not fault based - (almost) strict liability
- Producers / own branders / importers
- Defective = “safety of product is not such as person generally are entitled to expect”
- Objective standard - guidelines
 - manner in which product marketed, get up, instructions and warnings
 - what might reasonably be expected to be done with product
 - time when product supplied

Damages

- Special damages
- General damages
- Punitive damages

European dimension

- Product Liability Directive implemented Europe-wide
- Harmonising Directive
- Barriers to harmonisation
 - Article 13 - preservation of existing rights
 - Interpretation by national courts
 - Different damages regimes
 - Different procedural rules
 - Access to justice
- Consider each country separately

UK - US comparison

- Weaker litigation tradition
- Conditional fees but not contingency fees
- Judge not jury
- Liability for successful party's costs
- No punitive damages
- Limited class actions

Outlook for the future

- Impact of revised GPSD
- Development of principles under Consumer Protection Act 1987
- Future harmonising efforts