8. Breach of duty: the standard of care

This chapter focuses on the second of the requirements necessary to establish a claim in the tort of negligence—breach of duty. Breach occurs where a defendant has fallen below the particular standard of care demanded by the law. This is largely an objective test and is determined by comparing the actions of the defendant to those imagined to be done in the same circumstances by the so-called ‘reasonable man’. The questions to be answered are how the defendant ought to have behaved (what was the required standard of care) and how the defendant did behave (did they in fact fall below that standard).

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