Public bodies have extensive powers to act for the public benefit but often have limited resources. Difficult decisions have to be made, and if those decisions are wholly unreasonable they may be corrected by judicial review; that is, by public law remedies. A more difficult question is whether failure by a public body provides a private right of action to someone harmed (or not benefited) by the decision. While the general principles of duty of care apply (that is, proximity and whether it is fair and just to impose liability), there are several limitations on the liability of public bodies in negligence. This chapter first discusses the special common law principles applicable to the exercise of discretion by public bodies. It then considers specific problematic areas, including the difficulties involved in establishing duties of care by the emergency services before examining the effect of the Human Rights Act 1998 in establishing obligations owed directly by the state.
5. Special duty problems: public bodies

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