

WINTER GUIDANCE HARLOW DISTRICT

REPORT BY: LOCALISM AND CUSTOMER SERVICE TEAM ESSEX COUNTY COUNCIL

Guidance can be found on the Essex County Council website: www.essex.gov.uk/winter, or through the following sources:

http://www.fpb.org/hottips/657/Clearing_snow_and_ice_from_pavements_outside_your_premises.htm

There is also the National Transport resilience report:

<http://transportwinterresilience.independent.gov.uk/>

Self Help

During the severe weather events of 2009/10 the County Councils resources were fully stretched and it crews had to concentrate on maintaining the Precautionary salting network. This meant that the council had to rely on a network of farm contractors and district and town council staff to clear and treat secondary roads and main footways. However, there were no resources for the treatment of minor roads and footways.

European practice as was learnt at the Snow Summit is for local communities to take responsibility for clearing local roads and footways whilst the highway authorities concentrated on the main highway network. How this was managed and practiced varied but the main principle was that the work on local roads was carried out by local communities and businesses on a voluntary basis.

In the UK there have been myths or scare mongering that volunteers, residents or shop keepers clearing the highway could be liable in the event that someone is injured. There are no known cases of this happening in the UK and in some parts Europe there is a legal requirement for residents to clear the streets outside their property. Making a claim against an individual who has assisted in clearing the highway would fail for the following reasons;

1. The duty to clear snow and ice from the highway is not absolute but as a statute duty it is non-delegable and therefore any action would most likely lie with the highway authority.
2. Someone clearing the highway is going to be improving the situation and condition of the highway, unless they were deliberately negligent by creating an obstruction or making the area unsafe the court is unlikely to find against them even if it got that far!
3. We all have a duty to take care of other's safety and that includes removing where possible and safely items of materials that may endanger other highway users.

There may be situations where the resident could be liable if they allow snow or ice cleared from their property to be deposited onto the highway, or allow water to drain from their premises on to the highway and this subsequently freezes. In the event that the actions by the resident could be deemed to cause an obstruction or endanger highway users then the highway authority could include the resident in any legal action. Therefore residents are advised when clearing their driveway or footways to make sure that the snow is not deposited onto the highway and the thaw is drained safely.