



Accidents while attending a motorcycle track day

When is someone liable?



Summer is here and this is the perfect time to book that Track Day you were looking forward to throughout the cold, winter months. Your track day eventually arrives and you come across this clause:-

“By signing this form, you confirm that we are not liable for any accidents incurred on the course”.

But, what does it actually mean? Track days are exciting because, whether you are a novice or an expert, they are the perfect opportunity to put your riding skills to the test and ride at speed in a way that you would not be permitted to on your regular roads. But does this clause provide an absolute indemnity for the track day organisers against any liability for accidents? Or, if in the unfortunate event an accident occurred leaving you with injury and/or loss, would you be able to pursue the civil claim route for damages?

Here, we will consider the very important steps you will need to take when attending a track day and what would happen in the unfortunate event that an accident occurs.



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Attending a track day: what do I need to do beforehand?

It takes a solid amount of planning and preparation ahead of a track day to ensure you and your vehicle are ready; it is not simply a case of showing up with your vehicle and going around the track. So, what do you typically need in preparation for the day?

While this is not by any means an exhaustive list, it is important you have the following in place before you take to the track:-

- ✓ A full and valid driving/motorcycle licence
- ✓ A helmet
- ✓ Gloves
- ✓ Boots
- ✓ Motorcycle leathers (a one piece or zip together two piece)
- ✓ A mechanically sound vehicle
- ✓ Appropriate insurance

Appropriate track day insurance is arguably one of the most important points off the list above. You may be of the opinion that your regular on-road insurance would suffice

but realistically, the insurance won't extend to track days due to the risks of crashes to drivers given the high speeds you will be riding at.

Another difference between track day insurance and your every day bike insurance is that the former will cover only yourself and your bike regardless of fault; but it does not cover third parties! So what does track day insurance cover? While policies can vary, they will generally cover the cost of repairing or replacing your bike in the event that you hit the barriers and damage your car, another participant collides with you and damages your bike, there is a mechanical issue (which could arise from pushing your bike to the limit), your bike is damaged by fire following an impact. It does not cover any third party liability. You will be pleased to know, however, claims arising from a track day via track day insurance won't affect your no claims bonus on your standard insurance.

So what can we gauge from this? If you fail to attend without the having in place the above, the reality is that you will not be able to attend the event, so preparation is key!

What happens on the day?

So, you have all of the above in hand. Now is the time that you can show up and you are ready to go!

Usually track days will start in the morning and each group will be split into equally-skilled rider levels including novice, intermediate and more advanced/experienced riders.

Upon arrival, it is imperative you follow the rules of the organisers, they are there for a reason! The day will typically start with a briefing where the track rules and safety regulations will be covered, including the flag rules and the circuit rules. Riders will usually be given tips and techniques such as riding techniques to ensure they are fully equipped to take on the circuit safely and efficiently.

Once the briefing has gone ahead, the exciting part of the day arrives and it is time to take to the track. Riders will then split into their respective groups and 20 minute sessions will ensue.



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But what happens if there is an accident and it is not my fault?

Generally speaking, a track day organiser will not be held liable for any track day incidents as we discovered above. This is why it is important to have the suitable insurance in place! There are, however, a number of occasions when it may be possible to pursue a claim for an incident that was not your fault.

For example, in the event there was an issue with the track or the correct warning flags procedures were not followed, it may be that the organisers would be held liable on the basis that they have breached their duty of care by failing to ensure the correct safety features were in place to diminish the risk of an accident.

An example of the correct safety features not being put into place correctly and an accident deriving from this is from a track day that took place on the 5th October 2013. In this incident, the Defendant Company had failed to suitably assess the risk to other riders at a blind-brow hill by removing a marshal at that location. Consequently, an

accident ensued. While there had been CCTV, there was a blind spot. This meant that a rider that had fallen off their bike could not be seen. As such, the rider was struck by other riders that were unaware of him.

At the Court hearing, it was found that there could have been suitable warnings in place such as a yellow warning flag or a red light, which could have warned other riders of the fallen rider's presence. The prosecution's case in this instance was not about the inherent risks associated with track days but rather a foreseeable risk that was able to be controlled had the proper provisions been in place.

Tragically, in this case the rider died and other riders involved sustained serious injury. The Defendant company pleaded guilty and the Court fined them a total of £158,000, along with being ordered to pay prosecution costs in the sum of £250,000.

Summary

So to revert back to the question earlier, can you make a claim for an accident that derived from a track day? The answer will generally be no unless you can prove that there has been gross negligence and a serious breach of duty from the track day organisers and they have fallen below the standards expected of them, resulting in injury or damage.

It is clearly notoriously difficult to pursue a claim against a track day organiser. Ultimately, track day events are

inherently dangerous as you are putting your bike to its limits and riding at very quick speeds. It is for this reason that it is of the upmost importance that you obtain the correct insurance, ensure you have the correct equipment on race day and listen to and follow the instructions very carefully.

Failure to have the suitable equipment and insurance in place ahead of your track day will ultimately be at your own peril, so always be prepared!

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