

## If you don't wear a mask, could you end up in court?

By Amanda Hamilton

Chief Executive of the National Association of Licensed Paralegals (NALP)

**A**lthough there have been adjustments to planned easing of restrictions, we are slowly emerging from lockdown. With numbers of vaccinations exceeding 70 million, some people believe that we are close to back-to-normal – a life without masks. But that is not the case: the Government guidelines still recommend both mask wearing and social distancing.

So, if you take the step not to continue with mask wearing, and you contract COVID, or worse, you are a carrier and pass it on to someone else, whose fault is it, and can they or you be held legally liable? The law will naturally be vague over this issue as we have yet to experience such a case. It would be expected that there would be difficulties in pinpointing who has passed on the virus or from which location the virus was contracted, however, having taken the step to refrain from mask wearing, you may be the only person to do so, and the finger may easily point at you.

So, the question is whether you can be held liable in law? The simple answer is probably in the negative. The reason for this is that there is no law making it mandatory to wear masks, it is simply a guideline suggested by the Government in order to keep people as safe as possible.

### A civil wrong

But, could it be a civil wrong? The answer to that is, maybe. The fact that there is no crime committed, as there is no statute stating that mask wearing is mandatory, does not prevent someone who believes they have a claim against another individual from suing that individual through the civil courts, perhaps claiming negligence (not wearing a mask) that has caused personal injury (contracting COVID). Winning such an action gives rise to the automatic remedy of damages (compensation).

Furthermore, the burden of proof is a lower burden than that of a criminal action. The burden in a civil action is that the claimant must prove their case on 'a balance of probabilities', whereas the burden of proof in a criminal action is that the prosecution must prove their case 'beyond any reasonable doubt'.

If it is clear, therefore, that an individual is not wearing a mask amongst hundreds of others who are, then it's likely that the finger will be pointed at that person. So, is it worth risking not wearing a mask?

Despite the large numbers of people that have been vaccinated, it is vital to remember that the vaccination does NOT prevent you from contracting the virus. Furthermore, we should not forget that the virus is mutating in order to survive, and that means that we are bound to get another wave or two before the virus dies out completely.

We should therefore be sensible, and responsible to those around us and wait until the figures are zero, both for infections and fatalities, for a number of weeks, or perhaps even months, before we take the decision to refrain from wearing a mask or social distancing.

However, if you do run into COVID-related legal difficulties, then a paralegal can help and will be considerably more cost effective than a solicitor. Paralegals are legally trained, can do many (but not all) of the same jobs as a solicitor and can assist you at a reasonable cost.



*Amanda Hamilton*