

legal advice

Q A customer made lewd remarks to my new assistant. He persisted even though she was visibly shaken and after I asked him to stop. I then asked him to leave but he refused so I escorted him firmly to the door. As he was leaving, he tripped over the threshold and banged his head on the pavement. He is threatening to prosecute me. What are my rights?

A I commend you for sticking up for your staff. There are plenty who wouldn't. Clearly all you can do is ask the client to shut up or, if he persists, to leave.

A property owner is entitled to use reasonable force to remove a trespasser who refuses to leave and the chances of the police bringing a prosecution would be remote in the circumstances you have described. But remember: reasonable force does not mean punching someone senseless!

Should, however, this client decide to make a claim for negligence against you for having a threshold that is too high then that is a different matter.

Under the Occupiers Liability Act 1957, the owner has a duty to the client to take

In the first of a new series *Fish & Chips and Fast Food's* legal rotweiller, Grant Rechnic, answers readers questions.

reasonable care to make sure he will be reasonably safe. It is your responsibility to ensure the threshold is not of such a height that it is easy to trip over.

If it is a bit high, you should have a warning notice. Any claim against you should be immediately passed on to your building's insurers.

Remember, you are perfectly within your rights to ban this despicable person from your shop.

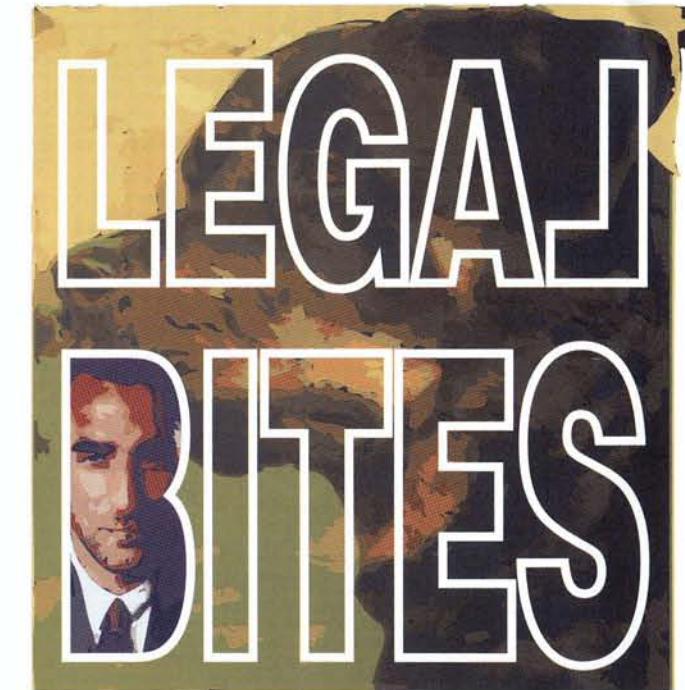
*Please send all new legal questions to **Fish & Chips and Fast Food, Legal Bites, Queensway House, 2 Queensway, Redhill, Surrey RH1 1QS***

Q I have just opened my third fish bar in a highly competitive area. One of my customers told me that a competitor is telling everyone I am being investigated by the environmental health department because someone got food poisoning. I am worried. I could lose a lot of business if people believe him. Help!

A What you are describing is slander if the remarks are unjustified. If it was in writing it would be libel. In both these cases any statements made would have to have a defamatory meaning.

In other words, it has to make "reasonable" and "respectable" people think less of the person about whom the statements are made and they have to reflect on a person's reputation.

With an action for slander you have to prove actual monetary damage and not mere injury to your feelings unless you fall within one of five exceptions. In your case the most relevant one would be that adverse



statements were allegedly made on your ability to carry out a business or profession.

It is very expensive to bring an action for slander, and legal aid is not available. You would need to budget for at least £25,000.

A letter should be written by a solicitor to the person making the insults to inform him

the remarks are defamatory and that if he persists in making them, further action may be taken against him..

Grant Rechnic is a partner at Simons, Platman & Rechnic. He will give free additional advice on the above topics to readers on 0171 580 9601.