

1.1 Trespass – person

Battery- contact with the person

- Assault- apprehension of contact
- False imprisonment- total restraint of freedom of movement.

1.1.1 False imprisonment

A total restraint on the plaintiff's freedom that is directly and intentionally/negligently, brought about by the positive and voluntary act of the defendant without lawful justification.

1. Voluntary and positive act by the defendant

2. Directness (look above/below)

3. Either intentionally or negligently

4. Total restraint of the plaintiff – no means of egress

- An alternate route or means of escape must be reasonable: If the route is **dangerous** (*Burton v Davies*), threat to property (yours or someone else's), legality, distance and time, physical health, clothing, the path taken and how **obvious** the alternate route is.
- *Bird v Jones*: entrepreneur has set out seats and cornered off one side of the bridge. He wanted to charge spectators to watch the boating races. Mr Bird has to walk the bridge but he likes to walk on the side closed off but he refused to go to the other side. He argues with the police man but he gets to the other side where he is restricted. He comes through but is charged with assault, he sues for false imprisonment. False imprisonment is not you getting your favourite route, but interest protected is freedom of movement. "total restraint of the liberty".
- *McFadzean v CFMEU*: confrontation between anti-logging protestors and pro-logging picketers. Loggers did not like the protestors and built a picket around their camp sites. The people did approach the loggers and tell them what they are doing. They went to harass the protestors as well. Some of the protestors escaped using the bush track and there was a police gate. Court stated:
 - If there is a reasonable means of egress no false imprisonment
 - Where there is a reasonable means of egress, hesitation does not constitute as false imprisonment
 - No reasonable means of egress, the hesitation is false imprisonment.
 - Personal attributes are taken into account
 - Whether you break the law by taking the other path
 - If you need to call someone with the authority to get out, you are falsely imprisoned, therefore police are not a reasonable means of egress. The bush walk is a reasonable means of egress.

5. Without lawful excuse (no defence applies)

- Time and area is not relevant (*Sa v Lampard-Trevorrow: obiter e.g. Someone got deported*)
- Inconvenience CAN become false imprisonment