

Welcome to Simpkins and Co's May newsletter

Visit our website for news, views, blogs & useful information. Keeping you up-to-date with the changes in legislation, interesting cases and issues that arise in the areas of the law we specialise in: Personal Injury, Clinical Negligence, Employment Law and Business Advice.

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EMPLOYMENT LAW NEWS

Zero or fixed hours contracts

McDonald's will allow its UK staff to choose between working on a zero-hours contract or having fixed hours

There has been much controversy over recent years about firms using zero-hours contracts but not allowing their staff to work elsewhere, so this is a significant development in employee rights. McDonald's UK workforce is more than 115,000, the majority of which are on zero-hours contracts.

The fast food chain has been trialling this move in 23 company-owned and franchise outlets. The company said in a statement that surprisingly only 20% of its staff chose to move to fixed hours' contracts.

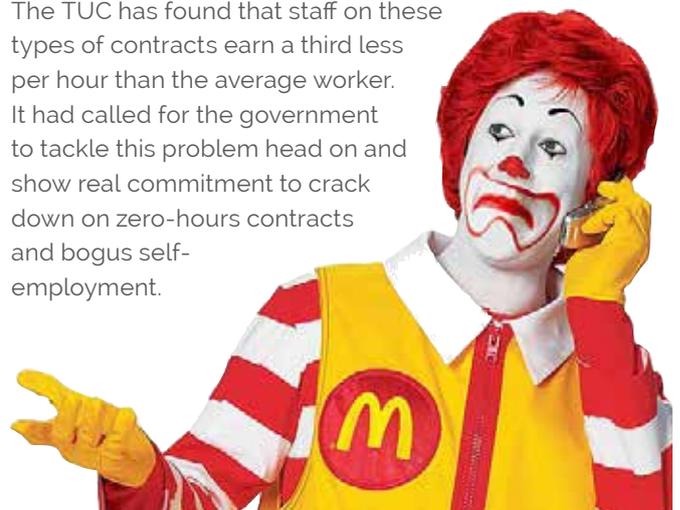
McDonald's UK CEO denied that McDonald's was reacting to political pressure by making the change. He said that even though most of their employees were happy with their flexible (zero-hours) contracts, some have said that a fixed hour contract would allow them better access to financial products after they had been struggling to get loans, mortgages and mobile phone contracts because they were not guaranteed employment each week.

He also thanked their franchisees, whose support enabled the company to respond to their employees' needs. The roll out of fixed hours' contracts will happen during the course of this year.

The GMB union's southern region secretary said that the government has been looking at possible changes to make precarious employment more secure. He went on to say that workers at McDonald's should be offered up to 40 hours of work a week and permanent contracts including annual leave, sick pay and a pension scheme.

Zero-hour contracts offer flexibility to workers but they are controversial because some companies have used them to exploit their employees, changing shifts at short notice and offering unpredictable working hours.

The TUC has found that staff on these types of contracts earn a third less per hour than the average worker. It had called for the government to tackle this problem head on and show real commitment to crack down on zero-hours contracts and bogus self-employment.



As an employer, do you need help writing staff contracts? Are you an employee who is concerned that your contract is not legal? We are experts in employment law and contract writing. Contact us at our Highcliffe office on **01425 275555** or visit **www.simpkinsand.co.uk**. We will give you a **FREE** initial consultation.

We're members of the Employment Lawyers Association (ELA).



Our Principal, Steve Simpkins was recently interviewed by Darren Slade, Business Editor of the Bournemouth Daily Echo. Read the article below:

Start-ups from Eastern Europe 'here to stay' despite Brexit uncertainty, says solicitor

The head of a law firm which advises many entrepreneurs from Eastern Europe says they account for a "significant percentage" of business start-ups.

Steve Simpkins says despite the uncertainty over Brexit, he believes there will continue to be a significant local population from Poland and other former Eastern Bloc countries.

Mr Simpkins is principal solicitor with Simpkins & Co, based in Highcliffe and London, which has a department to advise Polish speakers.

He said many business people from mainland Europe were biding their time until it is known whether EU nationals in the UK will be allowed to stay and vice versa.

"The impression I'm getting is people are still waiting to see what transpires," said Mr Simpkins.

"I think it's a bit of a negotiating chip, which is unfortunate because it affects people's lives.

"From the government point of view, I understand why they've taken the stand they have. If they were to make a policy decision and announce it, then that could prove to be difficult in terms of negotiating with other EU members."

He added: "There's a significant Polish and Central Eastern European community here and I'd be surprised if that isn't the case moving forward for some time."

Mr Simpkins' practice has nine staff working in civil litigation, business advice and private client work.

"About four or five years ago through contacts and friends, I befriended quite a few Polish individuals and it struck me,

having spoken to them and assisted them with a number of legal matters, there was a gap in the market," he said.

He set up a department headed by Polish-speaking solicitor Agnieszka Bania, assisted by Bartosz Maj. They became involved in Polish Business Link, based primarily in London, and Polish Business Hub, which hosts presentations and networking events at the Sky Bar of Bournemouth's Hilton and the Hermitage Hotel.

Mr Simpkins said Polish speakers were behind a wide variety of businesses including IT, search engine optimisation, web development, biotech engineering, accountancy, construction, speciality food and graphics. He said there was a strong entrepreneurial culture among people from the east of Europe.

"They account for a significant percentage of new business start-ups," he said.

"Where a lot of these people have come from, the shackles were on. We've become somewhat aware of what the regulations are, the regime out there in terms of business, and it's very difficult. They're highly taxed from the outset, it's very bureaucratic, there's still a big of a hangover from the old days of communist rule.

"They come over here and the shackles are off.

"There's so much more freedom and encouragement to be an entrepreneur which I don't think is necessarily the case back in their homeland."

At Simpkins & Co Solicitors we specialise in the following areas of the law:

- Employment Law
– advising both employees and employers
- Business Advice
- Litigation and Contractual Disputes
- Personal Injury and Accident Compensation Claims
- Clinical Negligence Compensation Claims
- Immigration Advice

If you need advice on any of these areas of the law, then contact us at our Highcliffe office for a **FREE** initial consultation on **01425 275555** or visit **www.simpkinsand.co.uk**.

We are members of the Law Society Personal Injury Panel, the Association of Personal Injury Lawyers (APIL) and the Employment Lawyers Association (ELA).

Have you been injured at work, in a car accident, at home or outdoors, through no fault of your own?

Did this accident happen within the last 3 years?

If you have answered 'yes' to either of the above questions, then you need to seek specialist advice. Personal injury law is complicated, but with the help of a personal injury solicitor, the process of making a claim can be quite straightforward. Many people shy away from using a solicitor because they think it will be too expensive or that they won't understand the 'legal speak'.

Fortunately, this is not the case and we'll show you the process of making a personal injury compensation claim:

Look for solicitors who are specialists in personal injury law. Check out the following:

- Client testimonials on their website.
- Are they a long-established firm and do they have at least 5 years of experience in handling personal injury compensation claims?
- Do they specialise in the type of personal injury you have suffered, e.g. RTA, spinal cord injury, accident at work etc.?
- Are they members of relevant organisations (the Law Society Personal Injury Panel, the Association of Personal Injury Lawyers etc.) and qualified to give you the advice you need?
- Will they be open and honest with you about your rights and the chances of you winning compensation?
- Do they offer a free initial consultation and give advice on funding options, including a 'NO WIN, NO FEE' agreement?

When you've found an appropriate solicitor using the criteria above, make an appointment for your free initial consultation. Meeting the solicitor who will handle your claim is very important. You will want to feel comfortable with him or her as you may be required to divulge



personal and painful details about your injuries. Choose a personal injury solicitor who is approachable and willing to explain what is going on, rather than one who prefers to keep you in the dark.

He or she will assess the prospects of winning your case, review all the funding options available to you and consider if you are best supported with a 'NO WIN, NO FEE' agreement. If you do not win the case, you do not have to pay any fees at all. For you, it is a no-risk decision and you, therefore, have everything to gain.

When you have decided that you are happy to instruct the solicitor he/she will establish the details of your case, what happened and the injuries incurred. Medical evidence will be gathered from the hospital you attended after your accident and from your GP. You may need to be examined by a medical expert to support your claim and your solicitor will suggest a relevant expert.

Your solicitor will then send a letter of claim to the person or company you are holding responsible for your accident (this is the defendant). If the defendant admits liability, then your solicitor will try and settle your claim out of court. Your solicitor will tell you how much your claim is worth based on the type of accident, the severity of your injuries, any ongoing treatment that will be required, loss of earnings, expenses incurred etc. He/she will also ask you the amount you are prepared to accept as you may want to make an offer to the defendant (known as a Part 36 Offer) in order to settle out of court, but your solicitor will advise on the best course of action to take. If the defendant denies liability, your solicitor may go to court to challenge the defendant and ask the court to award you compensation.

Your solicitor will keep you updated at every stage of the process and will always be available to answer any questions you may have. With the help of an experienced solicitor, the process is easier and quicker, with your chances of winning compensation greatly increased.

At **Simpkins & Co Solicitors**, we have 25 years of experience in successfully winning personal injury compensation claims and our client care record is exceptional. We take on all kinds of personal injury cases, even difficult cases or those that might seem untenable. We will fight your corner for you!

"Thank you very much for the cheque for my compensation which was received on Saturday. I was delighted that the Defendants have paid up without dragging the case on any longer and yes, I am very satisfied. Again, thank you very much for all your efforts on my behalf and should I require legal assistance at any time in the future I will certainly contact you".

We are members of the Law Society Personal Injury Panel and the Association of Personal Injury Lawyers (APIL). Contact us at our Highcliffe office on **01425 275555** for a **FREE**, without obligation, initial consultation or visit www.simpkinsand.co.uk.

CLINICAL
NEGLIGENCE
ADVICE

Have you been refused treatment by the NHS...

...even if it was recommended?

**"After all these years of dreadful pain, I can look forward to a happier, more active future. I can't thank you enough for your help and you'll never know how much difference this has made to my life. You're my knight in shining armour! I will always recommend you to anyone who needs legal advice."
Mrs B, clinical negligence claim.**



Our client, Mrs B, had previously suffered an injury to her left knee but was never offered any physiotherapy as part of her recovery. Years later and still suffering pain, she went to her GP and was referred to a physiotherapist for several courses of treatment. She was also forced to change jobs owing to knee pain when standing.

When she began experiencing pain and locking in her right knee owing to wear and tear (from using her right leg to bear weight more since injuring her left knee), she was given an operation on her right knee. This was successful and alleviated the pain. She informed the consultant about the problems with her left knee but he told her to just put up with it as long as possible.

In 2014, she started a retail job but had to give it up after only 1 week due to the excruciating pain in her left knee. The GP referred her to physiotherapist but the exercises did not help and so she was given an MRI scan and referred to a consultant at Southampton General Hospital. Her knee was operated on and she was told that they could not find the cause of the pain, but that she'd probably need a knee replacement in the future. She was given a course of physiotherapy after the operation but it took a very long time to 'recover' and the knee pain did not go away.

In September 2015, after starting a job in a library which involved a lot of standing, the left knee pain was aggravated, with persistent pain when standing. So, in June 2016, she went back to her GP and the priority of her case was increased so that she was referred straight to a consultant at the Nuffield Hospital. An MRI scan and x-ray

showed immediately that there was a fat pad impingement in her left knee. As this was a chronic condition and physiotherapy would not cure it, the consultant felt that she should have an operation to shave off the part of the fat pad that was causing the pain. She was given a date for the operation but was unaware that new additional approval was needed from the CCG (the clinically-led statutory NHS body responsible for the planning and commissioning of healthcare services for the local area).

Over the years, the problems she had owing to the knee pain impacted greatly on her work and home life. She was unable to stand for very long, it was very difficult for her to look after her two young children, undertake all the housework and work in a library. She was also unable to kneel down, unable to undertake any high impact exercises and she regularly suffered back and hip pain. If she did not have this operation, the likelihood would be that she'd develop osteoarthritis in her left knee. The prolonged time period of knee pain (over 28 years) also had a negative psychological impact on her which had, in turn, affected her family, preventing her from doing a lot of things she'd wanted to do. She felt very let down by the NHS, but her spirits were really lifted when the problem was properly diagnosed at last and the consultant had agreed to perform the operation that she so desperately needed.

Unfortunately, in November 2016, her hopes were dashed when she was informed that funding for her operation had been declined because there was no evidence of persistent pain and she did not have the symptom of knee locking.

Continued on next page.

CLINICAL
NEGLIGENCE
ADVICE

Have you been refused treatment by the NHS even if it was recommended? *Continued*



She went back to her GP to ask her to appeal the decision. She believed that the wrong criteria were used by the CCG and that knee locking is not a symptom of fat pad impingement. She felt that it was very unfair to be declined funding because she did not have this symptom.

In desperation, she approached Steve Simpkins of Simpkins & Co for help. He wrote to the CCG stating that the treatment she required had been clinically indicated by the consultant. It was clear that Mrs B quite appropriately had, over a significant period of time, sought to receive suitable and effective medical treatment in terms of intrusive and life changing symptoms experienced in her left knee. It was clearly arguable that from the history provided, she had received incorrect clinical treatment previously in terms of dealing with her problem. In particular, there were severe question marks as to why after her previous operation, further active steps were not taken to investigate the source of the problem.

The consultant had recommended appropriate treatment that Mrs B required but funding was denied on the basis that there was no evidence to suggest persistent pain or functional difficulties, which was clearly not the case.

Steve Simpkins appealed the decision on behalf of Mrs B, asking for an urgent review after obtaining correspondence from the consultant corroborating and justifying the need for this surgery. Essentially, Mrs B was just asking to have the treatment recommended to alleviate her symptoms so that she could simply endeavour to function normally in her life and move on from the chronic problems and symptoms she had experienced. Put simply, the NHS should fund the treatment properly recommended by the NHS appointed orthopaedic surgeon.

Very quickly the CCG reconsidered its decision and the funding was provided for Mrs B's operation. She is now recovering well and the pain has virtually gone.

Have you been refused treatment by the NHS even if it was recommended? Contact us now for a **FREE** initial consultation on **01425 275555** or visit **www.simpkinsand.co.uk**. Our solicitors specialise in clinical negligence claims. We are members of the Law Society Personal Injury Panel and the Association of Personal Injury Lawyers (APIL)

At Simpkins & Co Solicitors we deal in certain areas of the law, the ones we specialise in, giving you the **best service** from the right people. If you need support regarding any aspect of **personal injury, employment law, clinical negligence, business advice** or **Polish start-up assistance**, contact us to **arrange a FREE initial consultation** where we can also advise in relation to funding options as we appreciate that clients are often concerned about potential legal costs. **We may be able to act on a no win no fee basis**, or fixed fee arrangement, plus we can advise on whether legal expenses insurance cover is already in place via other means. We are always happy to take enquiries from Bureau advisors or clients.

Contact us to arrange a FREE INITIAL CONSULTATION: 01425 275555
FREEPHONE: 0800 0832755 or **FREEMOBILE: 0333 7777 420**

The above information and the content of this e-newsletter should never be taken as specific legal advice. If you have a legal problem then please contact Simpkins and Co, Highcliffe, Dorset, on 01425 275555 to discuss your issue in detail.

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