

## Welcome to Simpkins and Co's June 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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### PERSONAL INJURY NEWS

## Personal injury is a legal term for an injury to the body, mind or emotions

Even though most personal injury claims are brought for physical injuries, it is possible to file a claim for emotional distress. Intentionally caused emotional distress and distress caused by negligence are injuries for which you can claim compensation provided you can prove the distress has greatly affected your quality of life.

Intentional infliction of emotional distress is when someone acts in a way to intentionally cause you psychological harm, e.g. being subjected to severe bullying or harassment at work.



If the distress was caused because of someone's negligence and not intentionally, e.g. in a road traffic accident, you may also be able to claim compensation for emotional distress.

How do you know you're suffering from emotional distress? It would be a good idea to visit your GP to rule out any other underlying causes, but you would probably have some or all of the following symptoms for an extended period of time: -

- Sleep disturbance
- Chronic fatigue
- Unexplained physical symptoms, e.g. headaches
- Some loss of memory
- Erratic behaviour
- Mood swings
- Anger management problems.

Whatever your reasons for claiming, if you can prove your significant emotional suffering was caused by someone else's intentional or negligent behaviour, it should be possible to make a claim for compensation.

At Simpkins & Co, we have over 25 years of experience in all types of personal injury claims, including emotional distress. Contact us within 3 years of your injury on 01425 275555 for a FREE consultation.

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

EMPLOYMENT  
LAW NEWS

## Constructive dismissal: what is it and what can you do if it happens to you?

**Constructive dismissal is the changing, by the employer, of an employee's job or working conditions with the aim of forcing the employee's resignation.**

In a recent case, Mostyn worked as a sales executive for S and P Casuals. Following a decline in his sales figures, Mostyn was asked to accept a large cut in his basic salary (from £45k to £25k). He complained, and this complaint was taken as a grievance, but was rejected by the company. S and P Casuals then confirmed that they'd be imposing the pay cut. Mostyn resigned and claimed constructive dismissal.

An Employment Tribunal decided in favour of S and P Casuals, but this decision was overturned by the Employment Appeal Tribunal (EAT). The EAT upheld that the pay cut was a breach of both the express term of his contract in relation to salary payment and also the implied term of trust and confidence. When deciding whether the breach was repudiatory\*, the EAT held that the question was not dependent on whether it is fair to change the terms of a contract, but on whether the contract was broken in a sufficiently serious way.

\*Repudiation of a contract means a refusal to perform the duty or obligation owed to the other party.



**Have your terms of employment been breached or have you been constructively dismissed? Contact us on 01425 275555 for further information.** We are experts in employment law and member of the Employment Lawyers Association (ELA).

PERSONAL  
INJURY  
NEWS

## Huge fine likely for Sellafield after worker's exposure to radiation

**After their last fine in 2013 for sending radioactive waste to a landfill dump, Britain's biggest nuclear waste storage and reprocessing site are facing a potential multi-million pound fine.**

The firm is set to be prosecuted after an employee was exposed to dangerously high levels of radiation in an accident at the site whilst carrying out routine work. It happened in February 2017 when the employee was injured while handling equipment and which left him open to internal radiation. Even though he was decontaminated after the accident, it was found that he may have been exposed to 3 times the annual radiation limit.

The incident was rated serious enough to be reported to the Energy Minister. The firm will be prosecuted under the Health and Safety at Work act which states "It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all its employees".

There's no limit on the fine that could be levied if the company's found guilty when the case is tried later this year.



**Have you been injured at work through no fault of your own? We are experts in all types of personal injury compensation claims. Contact us on 01425 275555 for your FREE initial consultation.** We are members of the Law Society Personal Injury Panel and the Association of Personal Injury Lawyers (APIL).

EMPLOYMENT  
LAW NEWS

## Employment Appeal Tribunal (EAT) holds that harassment was NOT related to religion or race

**In another recent case, Bakkali (B) v Greater Manchester Buses, the EAT held that a Muslim employee was not subjected to harassment related to religion when he was asked by another employee whether he 'still supported Islamic State' (IS).**

B, a Muslim man of Moroccan origin, worked for Greater Manchester Buses. He had read an article by a German journalist about IS fighters and he then relayed this report to one of his colleagues. The comments in the article were of a positive nature and stated that IS were very good fighters and managed to run the country.

A few days later, the other employee asked B "are you still promoting IS?". B was very upset by this question and a heated argument ensued between the two of them. Because of his aggressive response, this resulted in B being dismissed for gross misconduct.

B then brought claims of direct discrimination because of religion or race, and also for harassment related to religion or race, which he based on his colleague's comment about IS.

Both of these claims were dismissed by the employment tribunal. In relation to direct discrimination, the tribunal held that the comment made by the other employee was because of his conversation with B, and not because of B's religion or race. The tribunal also failed the harassment claim, concluding that the comment was not 'related' to religion or race for the same reason as the direct discrimination claim.

B then appealed to the EAT stating that in the harassment claim, the tribunal had incorrectly decided that the comment was not 'related' to religion or race. The EAT dismissed the appeal. It decided that the employment tribunal had properly taken into account the context in which the offending words were spoken, there was no error in their judgement and the law had been applied correctly.



**As an employee, have you suffered harassment or discrimination at work? As an employer, do you need advice on workplace policies? Call us on 01425 275555 for further information on how we can help.** We are experts on employment law and members of the Employment Lawyers Association (ELA).

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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