

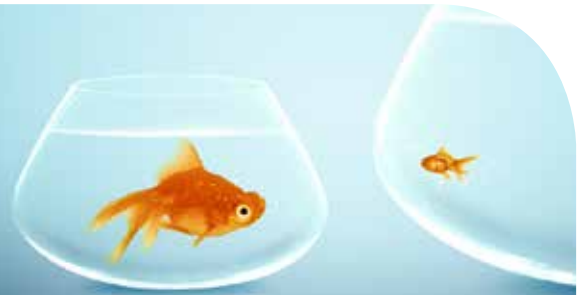
Welcome to Simpkins and Co's monthly e-newsletter

Keeping you up-to-date with the changes in legislation, interesting cases and issues that arise in the following areas of the law; Personal Injury, Clinical Negligence and Employment. We hope you will find it interesting and useful.

We've listened to your feedback and have produced an A4 version of our newsletter which we hope you will find more user friendly if you wish to print it.

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A4 version of our
newsletter

EU referendum: UK votes to leave



On 24 June 2016, the EU referendum result was announced, with a majority of voters deciding that the UK should leave the EU. Once the government notifies the European Council that the UK has decided to leave the EU, the two-year period can start for the negotiation for exit under Article 50 of the Treaty of the European Union. Until we know how the UK's exit will be determined, the direct legal implications for UK businesses are unclear.

Employment law

Some areas of UK employment law, such as the National Minimum Wage, are outside the scope of EU law and regulated by UK legislation, so therefore unlikely to be affected by a Brexit. However, other areas such as working time, collective redundancy consultation and business transfers, have been heavily influenced by the EU, often having a basis in European Directives or case law.

Once the formalities of a Brexit have been finalised, the impact on UK employment law will become clear. If the UK joined the EEA (European Economic Area), we would still be subject to most aspects of European employment law. If we chose to follow the Swiss model, involving access to the single market and many bilateral agreements, this could also restrict the sovereignty of employment law due to the need to satisfy trading partners.

If the UK seeks to negotiate a bespoke relationship, then significant changes could be made. The government would have freedom to depart from EU employment law by repealing and

amending legislation and the UK courts would not be bound by the decisions of the ECJ (European Court of Justice). If Parliament chose to repeal the European Communities Act 1972, all of the Regulations passed under it would cease to have effect. As this would cause significant legal and commercial upheaval, it is more likely that changes will be made gradually over time. Equally, it is likely that the UK courts will continue to treat any ECJ decisions as persuasive if not legally binding, at least in the short-term.

Immigration law

After much press coverage around immigration law in the run-up to the vote, it is certain to be an integral part of the negotiations around the post-Brexit relationship between the UK and EU. It is likely that the government will honour existing residence rights for EU citizens residing in the UK in return for the same treatment for UK citizens residing in other member states. Labour shortages, a loss of talent and mobility restrictions are all ways in which businesses could be affected depending on how the government elects to regulate or remove European nationals' right to live and work in the UK.

How will a Brexit legally impact employers?

In these very early stages, it is difficult to predict how Brexit will impact upon employers as changes to employment and immigration legislation will require consideration of a number of vital issues rather than just a legal analysis. As the UK will remain subject to EU law and applicable EU decisions before and during the notice period, there are unlikely to be

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EU referendum: UK votes to leave *continued*

any significant changes until a Brexit is confirmed. Also, since many EU employment laws have become entrenched in the UK's legal framework, the UK government is unlikely to make drastic changes at least in the short-term following a Brexit. Laws that are considered to impose the greatest burden on businesses - such as agency worker rights, collective consultation and working time rights - are most likely to be subject to change. However, the general consensus is that the changes will be neither radical nor immediate, giving employers ample warning to prepare. A short-term concern is that businesses will be less likely to invest in the UK until there is clarity on what the post-Brexit landscape really looks like.

If you have concerns, whether as an employer or an employee, then contact us for a FREE initial consultation on 01425 275555 or FREEPHONE 0800 0832755, email info@simpkinsand.co.uk or visit the website www.simpkinsand.co.uk.

We specialise in employment law and business advice, and we are accredited members of the Employment Lawyers Association.

Some practical steps for employers

- Communicate with any concerned employees
- Audit your workforce in terms of where they work and their immigration status
- Review employment contracts and policies
- Determine the effect on benefit schemes
- Check your European Works Council arrangement.

£700 raised for Spinal Injuries Association

Many, many thanks to all those who supported our summer soiree at Highcliffe Castle. We raised £700 in aid of the Spinal Injuries Association (SIA), which will go towards funding their peer support network and other vital services which the SIA provides.

Our guests, friends and local members of the SIA, enjoyed a fish and chip supper in the beautiful State Dining Room at the Castle and took part in a fun quiz and raffle.

The raffle prizes were all donated by friends and the first prize of £160 was very generously given back to the SIA by the winner.

This is taken from the press release written by Julie-Anne Houldey at Lime Tree Communications:

Steve Brookes, Peer Support Officer from the SIA thanked the law team for their support, commenting "The Spinal Injuries Association is all about helping people with spinal cord injuries rebuild their lives. We can't thank the team at Simpkins & Co enough for their generous support. Every donation really makes a difference."



Through their work as personal injury specialists, Simpkins & Co Solicitors has worked with over ten clients in the past two years whose lives have been directly affected by spinal injuries sustained in either an accident at work or a road traffic accident.

Principal solicitor Steven Simpkins said, "Every case is different, but the commonality is that each individual left home fit and able bodied, and through a traumatic accident had their lives shattered by major injury. Our role is to seek legal recompense, but the work of the Spinal Injuries Association goes much further in advising, campaigning and education on the behalf of injured people. Knowing how they operate, they have literally been life savers, and we are delighted to do whatever we can to support their excellent work."

If you have been affected by personal injury through no fault of your own, then contact us for a FREE initial consultation on 01425 275555 or FREEPHONE 0800 0832755, email info@simpkinsand.co.uk or visit the website www.simpkinsand.co.uk

We at Simpkins & Co are specialists in personal injury and clinical negligence compensation claims. We pride ourselves in putting our clients at ease, offering first rate client care and customer service at all times, and doing our best to make the law clear.

We are accredited with the Law Society Personal Injury Panel and we are members of the Association of Personal Injury Lawyers. We also hold Gold Corporate Membership with the Spinal Injuries Association.

Headscarf ban justified as genuine occupational requirement

Advocate General Kokott, who is the is the German Advocate General at the Court of Justice of the European Union (CJEU), has given the opinion that a private company's ban on employees wearing religious, political or philosophical symbols while on duty, which led to an employee's dismissal for wearing an Islamic headscarf, did not amount to direct discrimination. The Advocate General went on to say that, even if direct discrimination were established, the ban could be justified under the 'genuine and determining occupational requirement' of the EU Equal Treatment Framework Directive*.

(*The EU Council of Ministers formally adopted the Directive establishing a general framework for equal treatment in employment and occupation - covering age, disability, sexual orientation and religion/belief - on 27 November 2000).

The company, G4S, provides security, guarding and reception services to various customers from the public and private sectors. Its employee code of conduct states that employees 'are not permitted to wear any religious, political or philosophical symbols while on duty'. The employee (A) worked for G4S in Belgium as a receptionist until she was dismissed on 12 June 2006 on account of her firm intention, as a Muslim woman, to wear the Islamic headscarf. She brought a claim for wrongful dismissal and/or discrimination. A Labour Court dismissed her complaint, finding no direct or indirect discrimination. An appeal court dismissed A's appeal against that decision and, on further appeal, the Court of Cassation (the highest court in the French judiciary) stayed proceedings and referred the question to the European Court of Justice. It asked whether a prohibition on female Muslim employees wearing a headscarf at work constituted direct discrimination contrary to the Framework Directive.

Advocate General Kokott gave the opinion that the ban on wearing religious symbols could not be classified as direct discrimination. The Framework Directive states that direct discrimination occurs where one person is treated less favourably than another is, has been or would be treated in a comparable situation on account of religion. Given that the ban applied to all religious symbols, without distinction, and extended to political and philosophical symbols, the only difference of

treatment to which it gave rise was among employees who wished to give active expression to a particular belief and those who did not. This could not be said to constitute less favourable treatment that was directly and specifically linked to religion.

The Advocate General considered it relevant that employers benefit from a fundamental freedom to run a business, which must include the right to determine how roles are carried out and to insist on compliance with a dress code as part of company policy. Here, the headscarf ban was part of G4S's policy of religious and ideological neutrality, which was 'absolutely crucial' given the wide range of customers with which it dealt. The policy pursued a legitimate aim and therefore was appropriate and necessary, given that no less intrusive but equally suitable alternatives for achieving the same objective had been identified. As for whether the policy caused undue prejudice to employees, the Advocate General noted that this would be a question for the referring court to resolve, taking into account the size and conspicuousness of the religious symbol, the nature of the employee's activity, the context in which she has to perform that activity, and the national identity of the Member State concerned. However, the Advocate General noted that there was much to support a conclusion that the policy was proportionate.



If you have been effected by discrimination at work, whether as an employee or an employer, then then contact us for a FREE initial consultation on 01425 275555 or FREEPHONE 0800 0832755, email info@simpkinsand.co.uk or visit the website www.simpkinsand.co.uk.

We are specialists in Employment Law and are accredited members of the Employment Lawyers Association.

Age does not preclude Medical Negligence claims

Many legal cases are protracted, but we were recently delighted to finalise a case for our oldest client to date, albeit it took 3 years of legal wrangling to reach a settlement.

Toughened as lawyers are, this is a case which touched our hearts, and it has given us immense satisfaction to conclude this case for a truly wonderful lady. We have recovered damages on behalf of our client (Mrs B) for £60,000 through the National Health Service Litigation Authority.

You may think that being a nonagenarian would preclude you from making a negligence claim, but not so. In law, there is no age restriction for making a clinical negligence claim (although there are different rulings for those under 18 or with mental illness).

Now at 95 years of age, we hope that the matter can be put behind her, although the ramifications of the negligence will always remain with her.

Having sustained a fall at home, our client was taken to a major hospital in Hampshire to undergo surgery to fix a dislocated shoulder. Whilst this is a routine operation to install K-wires and pins, it is alleged that the surgery was negligently performed and the wires inserted incorrectly, causing them to move.

Following surgery, the K-wires migrated from their initial position, puncturing her lung, resulting in pneumothorax and resultant heart failure.

Prior to the incident, the victim and her husband were relatively active and self-sufficient. However, following the surgery our client's health deteriorated very quickly, and the pain levels necessitated strong pain relief.

Sadly, her husband of 72 years died in 2013, and no longer able to cope at home, Mrs B moved into a care home.

Steve Simpkins, our Principal at Simpkins & Co Solicitors commented, "Medical negligence claims can often take a considerable time to reach a conclusion. When your client is 92 (now 95) it becomes very important to get the case settled. It has been most rewarding to take on this case for a lady of senior years, and to help her attain compensation for her distress and injury. There is little doubt that the negligence has led to her suffering, and no amount of money will compensate for the pain she bears on a day to day basis.

It was also regrettable that some of her final years with her beloved husband were spent with lengthy hospital stays directly due to the consequences of negligent surgery."

At Simpkins & Co Solicitors, we specialise in medical negligence covering the Dorset and Hampshire area from our offices in Highcliffe; and the London area from our office in the capital.



To discuss your personal clinical negligence or dental negligence claim, contact us for a FREE initial consultation on 01425 275555 or FREEPHONE 0800 0832755, email info@simpkinsand.co.uk or visit the website www.simpkinsand.co.uk.

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THE MANAGEMENT ACCEPTS NO RESPONSIBILITY...

Oh really?

Almost everywhere you go these days you will see various legal looking notices claiming to absolve the management from any responsibility for damage, loss or injury. However, what the general public may not be aware of, is that such notices hold little legal sway.

Here at Simpkins & Co Solicitors we have recently secured a compensation payment for a client who sustained an injury at a Hampshire golf course whilst enjoying a round of golf on New Year's Eve.

Although a sign is publicly displayed at the golf club claiming that the management accepts no responsibility, this is at odds with the requirements of the law.



Our Principal solicitor Steven Simpkins commented, "Irrespective of how many disclaimer signs are put on display, there remains a duty of care for public safety. If the case reaches court, they will assess the reasonableness of the sign, but it in no way absolves management of any responsibility should accident or injury occur. It will be a case of looking at other factors such as whether there was any negligence leading to the incident."

In this particular case our client sustained an ankle injury when he tripped over a wooden framework that was not clearly visible as it had been partly obscured by overgrown grass.

The injury was such that our client was incapacitated, leaving his wife to cope with gardening, housework, cooking and shopping, all tasks that they had previously shared.

Steven added, "We were able to prove that the claimant had sustained personal injury and loss due to the club's unsafe facilities caused by poor maintenance, and attained a damages settlement for £12,500. "

The message to business owners is that yes, by all means erect such signage, but remain vigilant about all aspects of maintenance and safety at all times. The message for the public is that should you find yourself sustaining personal injury, it is always worth having a free consultation with us to see if you may be eligible to make a claim.

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Do you like your solicitor?

(and other questions to consider when choosing a personal injury solicitor)

It's really important that the solicitor you choose is the right one for you, so follow this guide and you can be sure that your personal injury compensation claim will be handled in the best possible way.

Is your solicitor accredited by reputable organisations and do they satisfy specific and extensive criteria?

Accreditation involves members keeping up to date with all the latest legal developments and showing that they have considerable specialist knowledge. Also, they must commit to a certain amount of training each year, which is rigorously vetted by independent assessors.

Can your solicitor provide evidence of competency and at least 5 years' experience in handling personal injury claims?

Look at your solicitor's website and read the testimonials there. Can they provide references from previous clients? Ask family and friends if they

have any recommendations. If they have used a personal injury solicitor, they will give you their opinion, both positive and negative. Ask questions and find out why they liked or disliked the solicitor, the process and outcomes.

Does your solicitor specialise in the type of injury you have suffered?

It's really important that you choose a solicitor who has experience in handling specific types of personal injury cases, e.g. road traffic accidents or spinal cord injuries. They will be able to guide you competently through the process of making a claim and achieve the best possible outcome for you.

Does your solicitor offer a free initial consultation?

It is important to discuss your case with your solicitor before proceeding. They will assess the prospects of winning your case, review all of the funding options available to you and consider if you are best supported



with a 'No Win, No Fee' agreement. It is also an opportunity to ask any questions you may have.

Do you like your solicitor?

This might seem a strange question, but you are going to be in close contact with your solicitor and may be required to divulge personal and painful details. It's important that you choose to work with someone you feel comfortable with and can trust. 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.

We at Simpkins & Co are specialists in personal injury and clinical negligence compensation claims. We pride ourselves in putting our clients at ease, offering first rate client care and customer service at all times, and doing our best to make the law clear.

If you need advice on these areas of the law, then contact us for a **FREE** initial consultation on **01425 275555** or **FREEPHONE 0800 0832755**, email info@simpkinsand.co.uk or visit the website www.simpkinsand.co.uk

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Simpkins and Co Solicitors only deal in certain areas of the law, the ones we specialise in, which means you get the best advice from the right people. We are specialists in [personal injury](#), [employment law](#), [clinical negligence](#) and [business advice](#) claims.

We are always happy to take enquiries from Bureau advisors or clients. We operate a **FREE** initial consultation where we can also advise in relation to funding options as we appreciate that clients are often concerned in relation to potential legal costs.

Contact us to arrange an initial FREE consultation: 01425 275555
FREEPHONE: 0800 0832755 or from mobiles: 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.

Personal Injury | **Clinical Negligence** | **Employment Law** | **Business Advice**

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