

UNIONLINE NEWS

Legal Services Newsletter
for GMB and CWU Members
and their Families

SEPTEMBER 2019



UnionLine secure £30k pay out for member forced to work under inadequate conditions

A GMB member has won £30,000, after UnionLine pursued his case for compensation, following a failure by their employer to deal adequately with his injury.

The member, Peter Birch, suffered from tennis elbow. He had been absent from work due to the injury, returning on amended duties to prevent the recurrence of the problem.

The amended duties were then discontinued, with Peter put back on multi-drop deliveries, which involved moving heavy pallets of stock over uneven terrain and various gradients.

As a result, he suffered further injury to his elbow which resulted in his having to find alternative employment at a slightly reduced pay rate.

Before the injury, there was an investigation made into using electronic pallet trucks, which

would have considerably reduced the level of manual handling he would have had to do - and could have prevented his injury. This machinery was not introduced until after he left the company.

In pre-litigation, liability was denied on the basis that the case was time barred. However, the time bar only applied to the first tennis elbow injury.

The second injury was well within the three-year time limit for action.

Liability was denied again and remained denied.

UnionLine had an ergonomics report undertaken, which was supportive, as well as the medical evidence.

As a result, the matter was settled at a pre-trial meeting, with the first offer being £7,500 which was increased to £30k through negotiation.

Peter Birch said:

“I would highly recommend being in a Union, because when I needed help with my employer UnionLine was there, It is reassuring knowing that someone has your back when you need help and advice.”

To register a new claim or for any legal advice call UnionLine on:

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New legislation ends employers NDAs

The UK government proposed new legislation in July 2019 which will stop employers using confidentiality clauses, also known as non-disclosure agreements (NDAs), to prevent individuals from disclosing information to the police, regulated health and care professionals or legal professionals.

While the government acknowledged there was a legitimate place for the use of confidentiality clauses signed as part of an employment contract or in a settlement agreement, it said they should not be used to intimidate victims of harassment and discrimination.

The legislation will mean that confidentiality clauses cannot be used by employers to prevent individuals from going to the police, doctors or lawyers with concerns over issues such as discrimination or sexual harassment. Legislation will also be introduced to make sure that NDAs' limitations are clear to those signing them, and to improve the independent legal advice available to employees when signing settlement agreements at the end of employment.



The government also said it would produce guidance on drafting requirements for confidentiality clauses, and introduce new enforcement measures for confidentiality clauses that do not comply with legal requirements. These will include additional compensation for some individuals whose confidentiality clauses in written statements do not meet new drafting requirements, if the case is brought before an employment tribunal.

The legislation will crack down on employers exploiting NDAs to cover up sexual harassment, racial discrimination and assault.

Susan Clews, chief executive of the Advisory, Conciliation and Arbitration Service (Acas), said: 'We support this proposed legislation. Acas is developing new guidance on the appropriate use of NDAs that will incorporate any new changes in the law.'

Currently, confidentiality clauses cannot prevent whistleblowing. For example, employees can report criminal offences, health and safety risks, and failures to comply with legal obligations. Individuals can also take matters to the employment tribunal.

UnionLine and UnionLine Scotland's Employment Teams provide legal advice and representation to members who may be involved in negotiating the terms of a settlement agreement with their employer or in settling a claim that has been raised in the Employment Tribunal. This may happen while members are still in employment, particularly where the complaint relates to discrimination, or following the termination of their employment. Union members will always be given full legal advice prior to agreeing to any settlement terms including any confidentiality clause so that they are clear about the implications of what they are signing.

VEGETARIANISM

Is vegetarianism a protected characteristic under the Equality Act 2010?

No, held an employment tribunal in *Conisbee v Crossley Farms Ltd.*

The Claimant brought a claim of discrimination on the grounds of religion and belief, the relevant belief being vegetarianism. The tribunal accepted that the Claimant was a vegetarian and had a genuine belief in vegetarianism and animal welfare. However, it held that vegetarianism is not capable of amounting to a philosophical belief under the Equality Act 2010. It is not enough merely to have an opinion based on logic.

"The belief must have a similar status or cogency to religious beliefs. Clearly, having a belief relating to an important aspect of human life or behaviour is not enough in itself for it to have a similar status or cogency to a religious belief."



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