

THE LEGAL VIEW



ISSUE NO.1 FEBRUARY 2010 THE NEWSLETTER OF STONEHEWER MOSS SOLICITORS

At Stonehewer Moss we are happy to help

Welcome to the first newsletter from Stonehewer Moss Solicitors.

We have a team of committed, enthusiastic legal experts ready to help. We also have lots of experience and a strongly ethical and client-friendly approach.

In this issue we explain some of our new services available and introduce you to some of the team.

We explain some of the 'jargon' and offer advice on how to give your claim the best chance of success.

You may rarely require legal advice. When you do we want to make sure that it is a positive experience that you would happily recommend to your friends, colleagues and family.

In the current economic climate, it is more important than ever to make the right decision when it comes to legal matters.

Visit our new website to find out more

The new Stonehewer Moss web site (www.stonehewermoss.co.uk) has recently been launched.

The site provides lots of information about who we are and how we can help you, plus a comprehensive look at the legal services we offer and how it relates to your situation.

Look out for new features being added in the coming months, all designed to help site visitors, clients and potential clients.



Dominic Moss
Senior Partner and Principal Solicitor

We make a point of talking to you about what would best suit your specific case, not taking the easy way with a one-size-fits-all attitude.

Why not call us on 01606 872200 for a free initial consultation? Free parking is available and there is easy access for those with problems getting around. We will always make time to see you.



You will also find the first in a series of guides about Employment Tribunals, an area of law affecting much of the working population. In addition there's an interesting prize draw competition to enter.

Stonehewer Moss Solicitors

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Visit www.stonehewermoss.co.uk
Telephone us on 01606 872200

Regulated by the Solicitors Regulation Authority

At Stonehewer Moss Solicitors we offer legal advice on employment law for employees, take legal action against individuals and companies for clients and handle accident claims for those involved in a non-fault accident.

We don't do conveyancing, family law is not our thing and if you have just been arrested it is also likely you will need to speak to another law firm!

Our clients are the centre of our attention. We are genuinely interested in your case and will always take time to meet with you and find out about your situation.

MOBILITY DIFFICULTIES?

If you are unable to visit our offices for whatever reason, we'll come to you...
If you are within 10 miles of Northwich we can arrange visits to see existing or potential clients during our normal working hours. Call 01606 872200.

"I am taking someone to court – why should I choose Stonehewer Moss?"

Because we specialise in litigation i.e. taking someone to court. That's what we do best. Call Dominic Moss on 01606 872200.

"I think I have been sacked unfairly. Can Stonehewer Moss Solicitors help?"

Yes we can. We will talk to you and advise what is best in your situation. Call Sarah Parr on 01606 872200

Cheshire's leading litigation solicitors

Prize draw! To enter visit
www.stonehewermoss.co.uk

Meet the employment law expert

In April 2009 Sarah started with Stonehewer Moss where she is also the Director of Litigation and has day-to-day control of all contentious claims and litigated proceedings, assisted by Charlene Morris.

Sarah studied law at the University of Central Lancashire and then worked whilst studying for her Legal Practice, qualifying as a solicitor in February 2002.

She worked for 8 years for a firm advising a major road haulage company on their road traffic accident claims, both as a claimant and as a defendant. Additionally Sarah assisted the Partner who was retained by the Road Haulage Association's legal expenses provider at that time, with employment related claims as a respondent.

Like Dominic, she is a member of APIL – the Association of Personal Injury Lawyers. Other areas of law Sarah practices are employment, debt recovery, Probate, Powers of Attorney and general civil litigation (breach of contract) etc.

Sarah has experience of pursuing claims to trial at a tribunal for unfair redundancy, unfair dismissal, whistleblowing, bullying and harassment leading to constructive dismissal,



Sarah Parr, Solicitor and Director of Litigation at Stonehewer Moss Solicitors

disability discrimination, sex discrimination as well as in personal injury claims before the County Courts.

For about 4 years Sarah has been a Local Conciliation Officer with the Legal Complaints Service looking at issues of inadequate service provided by solicitors to clients.

As such she is acutely aware of the distress and inconvenience which can be caused to a client as a result of poor service and will always try to be there to speak to you personally should you need to contact her.

Sarah lives in Wilmslow during the week and goes home to Cleveleys in Lancashire at weekends. For relaxation she enjoys dance classes, belly dancing and body jam (a mix of street dancing, hip hop etc).

Employment Law and You

As an employee, you have rights and obligations, and so does your employer. When these are breached to your detriment, such as unfair dismissal or discrimination, we can advise you on what can be done to right that wrong. If you think you have been treated unfairly or have an employment law problem, call Sarah on 01606 872200 or send an email to sarah@stonehewermoss.co.uk

A surprise display of flower power!

Siobhan Smyth recently completed a successful personal injury claim for a client of ours - a Mrs P from Luton.

'Nothing unusual in that' you may say, but Siobhan had a very fragrant surprise when this beautiful bouquet was delivered to our offices here in Northwich.

Mrs P was so delighted with both the settlement and service she received from us that she felt compelled to send a floral thank you. Aah!



Siobhan Smyth, our Assistant Solicitor receives the surprise bouquet

The rest of our team

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Assistant
Solicitor



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Trainee
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The Jargon Buster

UNFAIR DISMISSAL

There are several ways in which dismissal can be unfair:

- Your employer does not have a fair reason for dismissing you.
- Your employer didn't follow the correct dismissal procedure.
- You were dismissed for an 'automatically unfair' reason.
- Exercising one of your statutory (legal) employment rights e.g time off for jury service.

Company director gets £68,000 for unfair redundancy



Our client, Mr C, was a director for a large company and believed he was made redundant unfairly. We took on the case – and won!

What we did

With help from Sarah Parr, Mr C brought a claim before an employment tribunal and eventually negotiated a settlement in his favour for unfair redundancy.

Background

Mr C was a non-executive director of an international company, which entered into redundancy consultations with a few of its staff, including Mr C.

Mr C believed that the redundancy was unfair as his position remained intact and that his employer was simply trying to get rid of him so that a new Director could be appointed.

Case handler

Sarah Parr, our Director of Litigation, has day-to-day control of all contentious claims and litigated proceedings.

See her profile opposite to find out more about how she helps clients who find themselves in often difficult circumstances.

Settlement

The outcome of this case was that a settlement was negotiated with the former employers, and Mr C was awarded £68,000.

For more clients case studies - visit http://www.stonehewermoss.co.uk/info_casestudies.htm

CURRENT AFFAIRS

Dominic Moss - Senior Partner
and Principal Solicitor
e-mail:dom@stonehewermoss.co.uk



A change in the law - but not a change for the better?

Less chance of independent legal advice with your future insurance claims.

A year ago Lord Justice Jackson was appointed to review the rules and principles governing the costs of civil litigation and to make recommendations in order to promote access to justice at proportionate costs. Below, Dominic gives his perspective on the findings of the report.

‘It is my view that the emphasis on BTE Insurance and the removal of ATE and the success fee is linked to the inception of The Legal Services Act and the ABS’s (alternative business structures) that the Act will make possible.

As its stands the business models of BTE insurers only work because high referral fees are paid; the premium itself not being based on risk but on what the consumer will pay.



By removing referral fees, the report’s recommendations on one hand remove the need for claims management companies, and on the other make the current referral arrangements between large insurers and large solicitor firms illegal.

However, after the Act comes into force, the insurers will still be able to offer discounted BTE premiums by referring the work to their own in-house lawyers without a referral fee. This will generate a greater income for them than the current referral arrangements.



Thus, at a stroke, the government will get the slick, corporate, compartmentalised approach to claims handling that it thinks will benefit consumers. The insurers get to control the majority of claims from the commencement of insurance to completion of the claim - with not an independent solicitor in sight!

ADVICE ON A WIDER RANGE OF CASE TYPES

We can help you with all aspects of employment law including redundancy, discrimination, dismissal, employment tribunals, breach of employment contract and injuries at work.

Other areas of law we help clients with include general breach of contract, debt advice, commercial litigation, debt recovery and personal injury accident claims.

The Jargon Buster

Before the Event (BTE) Insurance

An insurance policy taken out by those wishing to protect themselves against potential litigation costs, which could be incurred following a future event.

It is usually paid on an annual basis to an insurance company and often sold as part of a household or car insurance policy.

After the Event (ATE) Insurance

Insurance taken out after an event, such as an accident which has caused an injury. This is to insure the policyholder for disbursements, as well as any costs should they lose their case.

It is most commonly used by individuals that do not have BTE insurance. If the claimant loses their case, then the insurance company will pay their opponent’s legal costs and expenses.

The Legal Services Act 2007

Legislation that will liberalise the market for legal services in England and Wales, allowing what is known as alternative business structures (ABS - see below) with non-lawyers in professional, management or ownership roles.

Alternative Business Structures

These new types of law firm, permitted from about 2011, such as those with more than 25% non-lawyer managers, or a company taken over by a non-lawyer enterprise. They will need to be licensed by a licensing authority as a licensed body.



Personal Injury – what can be claimed for?

If you have suffered an injury in an accident that was not your fault you may well be eligible for claiming personal injury compensation.

Being injured is no laughing matter, particularly when you didn't do anything to cause the injury, and even a minor injury can leave you out-of-pocket or suffering with pain.

There are a great many types of accidents you may be able to claim personal injury compensation for. The main types of claims involve:-

- *Road traffic accidents* – Motorcycle accidents, car accidents, accidents involving cyclists or pedestrians, and accidents caused by dangerous roads or roads which have been poorly maintained.
- *Whiplash* – This is a common car accident injury and can cause long-term pain and problems.
- *Work Accidents* – those caused by faulty or poorly maintained machinery, poor working practices, hazards or obstacles, inadequate training or poor risk assessment.
- *Slips, trips and falls* – These can happen in the workplace, in a supermarket or on an uneven road or pavement. They can be caused by a poorly maintained pavement or a spillage or wet floor not having a 'wet floor' sign.
- *Criminal injury* – Injuries sustained from being a victim of a crime.
- *Industrial Disease* – RSI, asbestosis,

Compensation can help you take time away from work to recover properly, pay for private medical treatment and compensate you for costs related to your accident. Helping you get on with life and provide for your family if you no longer can.

If you have suffered an accident that wasn't your fault in the last three years, The Personal Injury Practice is here to help you - call us today, also on 01606 872200.



Vibration White Finger, and deafness are just a few examples of disease or conditions that can be caused by a person's job or working conditions.

- *Medical negligence* – Including misdiagnosis, birth injury, a delay in diagnosis, not receiving adequate care, illness caused by an unclean hospital, being given the wrong medication, receiving unnecessary treatment or surgery going wrong.
- *Public liability* – This includes accidents in supermarkets, shops, business premises and public areas.
- *Sport Injury* – Injuries sustained playing sport or being a spectator.

If the accident was not your fault then you have every right to make an accident claim. You may be put off claiming for your accident, thinking that too many people claim, that we live in a "compensation culture" or fearing making trouble. Don't be!

Questions, questions

Below are some questions that we've been asked by our clients. We thought they may be of interest to you.

Do I have to hire Stonehewer Moss Solicitors after the free initial consultation?

No. The initial free consultation is just that, but we hope that having advised you initially you will allow us to help you should you decide to pursue the matter with professional help.

Can my employers legally dismiss me if I make a claim following an accident at work?

No. If your accident occurred at your workplace your employer is not legally justified to dismiss you if you make a claim for compensation. If he does so you may well be able to claim for unfair dismissal.

It is important that you remember that employers are legally bound to take out insurance specifically to cover accidents at work.

Any compensation that you are awarded will be paid for from that insurance and will not have to be paid for by your employer(s).

How much does it cost to take someone to court?

This will depend entirely on the circumstance of the individual case. Costs for this can run quite high but you may be able to claim these back from the person you are taking to court.

In these cases it is advisable to seek professional advice before proceeding. We will be able to tell you whether or not you have a viable case before you take any action.

More clients' FAQ's can be found at www.stonehewermoss.co.uk

Got a question?

Send your question to us at: enquiries@stonehewermoss.co.uk
Our answers to your questions will be added to our website - find out more at www.stonehewermoss.co.uk