



Taylor *Bracewell*

Your solicitors | Your success



AUGUST 2022 - NEWSLETTER

This month we have 5 new exciting articles which focus on Family, Medical Negligence, Employment, Disputes and Commercial Property!

Here at Taylor Bracewell, we love to hear what you think, so make sure to message us via our website at www.taylorbracewell.co.uk and let us know what you want to see next!

If you need any more information on any of the subjects mentioned in this newsletter, don't hesitate to contact us on 01302 341 414

TABLE OF CONTENTS

5 Tips: How to make a divorce go smoothly P.2

Why you should check the medication you're prescribed P.3

Discrimination arising from disability P.5

What is "The how to Rent: The Checklist for Renting in England" Guide? P.7

Leasehold Reform (Ground Rent) Act 2022 and what does this mean for leasehold property? P.8

5 TIPS: HOW TO MAKE A DIVORCE GO SMOOTHLY

FAMILY LAW

A divorce can be a very stressful and upsetting time and all you want is for the divorce to go smoothly. We understand that your overall objective is to exit the marriage as soon as possible, therefore here are 5 tips you should try which may help your divorce go smoother and potentially quicker:



- 1 Seek Professional Help and Advice** - Seeking professional advice soon as possible is important to avoid errors being made which can cause unnecessary delay and costs.
- 2 Be polite** - Try to talk things through as much as possible with each other in an appropriate manner.
- 3 Honesty is key** - Be honest from the start and do not hide anything back from the other party. It will help promote clear communication!
- 4 Be prompt** - Be active and do not delay anything as this can cause further distress and anxiety for both parties!
- 5 Reduce third party input** - Try not to involve third parties such as family, friends and especially not any child/children of the marriage. We understand this may be difficult; however the input of a third party can sometimes lead to delays and further distress.

In addition to these 5 tips, it's important to remember that neither party needs to blame one another for a divorce to occur. This is the result of the law changing surrounding divorces on the 6th April to introduce "No Fault Divorce". For more information on what this is and how it can positively affect your divorce, then see our ["No-Fault Divorce" article!](#)



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WHY YOU SHOULD CHECK THE MEDICATION YOU'VE BEEN PRESCRIBED

MEDICAL NEGLIGENCE

When you seek medical attention, the medical professional owes you a duty of care. Medical professionals must provide treatment to an accepted professional standard.

If care that you receive falls below the accepted professional standard and you suffer injury and loss as a consequence, you are entitled to make a claim for medical negligence compensation for your loss, damage, pain and suffering.

Examples of Medical Professionals include but are not limited to:

- Consultants
- Doctors
- GP's
- Dentists
- Nurses
- Pharmacist or pharmacy workers



You could claim compensation if you have suffered loss, damage, pain and/or suffering because of:

- **Dosage Error** - Over or under prescription of a medication
- **Being prescribed the wrong medication**
- **The wrong prescription** - This could either involve you being given someone else's medication or you being provided with medication that doesn't reflect your prescription
- **Delayed prescription**

Please note: Compensation will not be paid simply because you were given the wrong prescription but if it has caused you avoidable loss, damage, pain and suffering, you are entitled to claim compensation.

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Possible consequences of being prescribed the wrong medication

The wrong medication can cause a number of adverse consequences some of which include:

- Avoidable and unnecessary pain and suffering caused by the medication not doing what it should or alternatively adversely affecting your existing condition;
- Delayed recovery from symptoms and suffering;
- Permanent damage to internal organs impacting on your long term quality of life; and
- The emotional suffering caused by your loss, damage, pain and suffering.

Unfortunately, in some cases, prescribing the wrong drug or failing to prescribe the correct medication could result in death.

Awards of compensation claims:

If you have been prescribed the wrong medication, there are two aspects to any compensation claim which are:

General Damages - Pain, Suffering and Loss of Amenity

Special Damages - Any and all out of pocket expenses/losses caused

Please note: Special Damages can include any losses/expenses special to your circumstances. Examples of which are:

- Loss of earnings/income
- Loss of future earnings
- Pension loss
- Costs of private medical care/treatment
- Travel costs
- Adjustments at your home. This could include needing a care bed, for instance
- Care and Assistance received

Our Disputes team will be more than happy to help, you can contact them today on 01302 341414 or fill out our online enquiry form.



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DISCRIMINATION ARISING FROM DISABILITY

EMPLOYMENT LAW

This update focuses on a recent Employment Tribunal decision where a finding of unlawful discrimination was made following a dismissal in the case of *Kelly v Sainsburys*. The employee brought claims for unfair dismissal and "discrimination arising from disability". Mr Kelly, a long standing employee, was dismissed by Sainsburys following complaints that he had been making sexual and racial comments as well as rubbing the shoulders of some of his female colleagues. He argued his conduct was a consequence of the brain injury suffered following a car accident in 2004.



The different types of disability discrimination contained within the Equality Act 2010 are: direct discrimination, indirect discrimination, harassment, failure to make reasonable adjustments and discrimination arising from disability. With an 'arising from' claim there is no requirement to have a non-disabled comparator. There simply needs to be some behaviour that 'arises' in consequence of the disability which in turn leads to unfair treatment on the part of the employer. Examples given include an employee with behavioural issues.

The employer must have knowledge of the disability, however that doesn't mean an employer can simply ignore issues. An employer will be found to have knowledge in circumstances where they 'ought' to have known the employee was disabled. The employer can put forward the defence that they are achieving 'a proportionate means of achieving a legitimate aim'. Proportionate means a decision that is fairly balanced against the disadvantage the employee experiences and any decision needs to be appropriate and necessary. Ultimately an employer needs to look for ways around the problem and provide evidence that they had no reasonable alternative to the treatment complained. Here, the treatment complained of was the decision to use disciplinary measures and then to dismiss.

This case arose within the context of a misconduct dismissal where behavioural issues were central to the case, with Sainsburys dismissing following complaints of sex and race discrimination. However a finding of unlawful discrimination was made as the tribunal concluded that the employer had failed to consider all potential medical evidence in the case and therefore did not have a full understanding of the employee's brain injury, and how it impacted on their behaviours and a finding of discrimination was successfully made out (as was the unfair dismissal claim). The outcome could have potentially been different if, for example, the employer had obtained credible medical evidence showing that the behaviour couldn't be successfully managed within the workplace. The employer could then have put forward the proportionality defence to any claim.

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In conclusion, the tribunal concluded that the decision-making process was flawed as the employer could not prove they fully understood the employee's medical condition. If an employer fails to have all relevant medical evidence or fails to consider evidence which is put forward as mitigation this could lead to a finding of discrimination even were the conduct of the employee initially appears to be blameworthy.

About our Employment Department!

During the course of your working life, there are times when you may need guidance and support. Things do not always go smoothly.

We advise individuals who work in a variety of different sectors on all aspects of their employment rights.

We have helped many employees bring cases against their employers and win, we will help you to explore the best options for achieving the outcome that you want.

We can help with any of the following issues:

- Disciplinary and Grievance Procedures
- Discrimination in the workplace
- Redundancy
- Unfair Dismissal & Constructive Dismissal
- Settlement Agreement
- Employment Tribunal Claims



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TESTIMONIALS

*"Lauren acted more like a friend than a solicitor. Lauren and her staff answered all questions put to them curiously with help to me as my administration skills are nil.
Thankyou"*

- Mr and Mrs McCabe -



Lauren Smith

Partner & Joint Head of Wills,
Probate & Trusts

WHAT IS "THE HOW TO RENT: THE CHECKLIST FOR RENTING IN ENGLAND" GUIDE

DISPUTE RESOLUTION

When a landlord rents a residential property to a tenant by way of an Assured Shorthold Tenancy Agreement they have to provide the tenant with a copy of the How to Rent: The Checklist for Renting in England guide. This must be provided at the start of the tenancy agreement. If the tenancy is renewed and the guide has been updated, then a copy of the new guide must be provided. At the end of the tenancy a landlord may not be able to serve a Section 21 Notice seeking possession until the requirements have been complied with.

The guide sets out the rights and responsibilities of the parties and how they should proceed through the course of the letting process. A copy of the guide can be found here by [clicking here!](#)



Tip from our Dispute specialist Emma Cornell:

When a landlord provides a copy of the guide to the tenant they should have the tenant sign to say that they have received the same. This should also confirm the date that it was provided. This may be needed if Court proceedings are issued seeking possession of the property.

Our Dispute Resolution team have had years experience in dealing with all aspects relating to tenants and landlords. If you are a tenant or landlord with an issue, then don't hesitate to contact our team by calling them on 01302 341 414.



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LEASEHOLD REFORM (GROUND RENT) ACT 2022 AND WHAT THIS MEANS FOR LEASEHOLD PROPERTY

COMMERICAL PROPERTY

30th June 2022 will bring about changes to the way leasehold is dealt with. The new legislation will be fairer and more transparent for prospective leaseholders.

This means that if a residential lease is granted for 21 years plus, and for a premium, the Landlord will be unable to charge a ground rent. This will also apply to surrenders of leases and re-grants. Where there is no premium payable, lease variations will be available.

However, this will only apply to leasehold property post 30th June 2022. Further reforms are expected to ensure that leaseholders are not treated unfairly by their Landlords.

Our Commercial Property team are always happy to help, contact them on 01302 341414

We have more articles on our website relating to Commercial Property, here are 3 that you may find useful:

- [Commercial Property F&Q](#)
- [What is the difference between residential and commercial property?](#)
- [Business Leases](#)



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ABOUT US

Taylor Bracewell Solicitors is a dynamic and forward thinking legal firm with offices in Doncaster and Sheffield. We are passionate about providing individual service and connecting with our clients on a one to one basis. This enables us to fully understand our clients' legal needs and deliver exceptional value in our services

Our Services:

- Commercial Property
- Family Law
- Employment Law
- Disputes
- Medical Negligence
- Personal Injury Claims
- Business/ Company Law
- Business Disputes
- Charities
- Wills, Probate and Trusts
- Asset Protection
- Inheritance Tax planning
- Powers of Attorney and Court of Protection



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