



Taylor *Bracewell*

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NOVEMBER 2022 **- NEWSLETTER**

This month we have 4 new exciting articles which focus on divorce, minimum wage, break clauses and the increasing backlog on hospital waiting lists!

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

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LAUREN SMITH WINS WOMEN IN LAW AWARD 2022

GENERAL NEWS

Traditionally the legal sector is a male-dominated profession. Therefore, the **Women in Law Awards** aims to recognise the work and achievements of Women in Law. The Awards are an annual celebration of these professionals and their endless effort to develop themselves and the legal industry at large.

We are pleased to announce that Lauren Smith, Partner & Head of Wills, Probate & Trusts has won The Women in Law Awards 2022. Everyone here at Taylor Bracewell is thrilled with Lauren's award and the commitment and enthusiasm she brings to her line of work.

The Women in Law Awards Winner Edition Magazine state that "Taylor Bracewell are relentless in their efforts to meet and exceed their client's expectations"

Learn more about Lauren:

Lauren Smith is a Partner here at Taylor Bracewell and she heads up our Wills, Probate & Trusts team. Lauren acts for all individuals however her speciality is working with elderly and vulnerable clients.

Lauren qualified as a Solicitor in 2006, meaning she has over 15 years of experience specialising in Wills & Probate. With her growth of knowledge and contacts, she is well-known and respected within the Yorkshire region. Lauren joined Taylor Bracewell in December 2014 becoming a Partner in April 2018.

Lauren is also a member of STEP (Society of Trusts and Estates Practitioners) and is a fully qualified TEP (Trusts and Estates Practitioner). STEP is a worldwide professional body for practitioners in the field of trusts and estates.

We are also pleased to say that this is not Lauren's first award. Lauren has other great achievements, her latest being her achievements in the Will Aid Campaigns. Further information on Will Aid can be found in our "Taylor Bracewell tops the leader board again blog".

If you wish to speak to Lauren regarding any Wills, Probate & Trusts issues, she can be reached by emailing her at Lauren@taylorbracewell.co.uk or by 07780 497 116. Alternatively, you can contact the Wills team by filling out our online enquiry form.



DIVORCE AND HOW IT AFFECTS CHILDREN

FAMILY LAW

Separation is a very stressful time for the parties and often the needs of the children are overlooked. It is important to handle things in the right way as children end up being in the middle of disputes between their parents.

Children are affected by their parents separating including young children. You should speak to your children about the separation and encourage them to talk about how it is affecting them and listen to their wishes and feelings.

Children need and deserve an explanation as to why their parents are separating and you need to respect one another. Children love both parents and you should try however strongly you are tempted not to push them into taking sides.

It is necessary to try and obtain a proper routine so that after the parents have separated the children can spend quality time with both of them. Children should be aware that they also have rights and the older they are the more weight is put upon their wishes. Children need to be made aware that they have two separate parents who love them.

Parents should respect one another and never bad-mouth the other in front of the children.

Once you have separated you need to handle things now and ensure that the children are your paramount concern otherwise this could have a detrimental effect on them in the future. To have their future planned by their parents is so much better than having it imposed upon them by a Court.

It is important that you do not undermine the other parent's day-to-day care of the children and try to establish some consistency. The style of rearing a child is something that needs to be done by both parents.

If you require any further advice or assistance in relation to this, then please do not hesitate to contact our friendly and professional family team on 01302 341414 or 0114 272 1884 or fill out our online enquiry form.



Sharon McKie

Head of Family department

T. 01302 965814

E. Sharon.metaylorbracewell.co.uk

10 Q&A ON NATIONAL MINIMUM WAGE

EMPLOYMENT LAW



1 What is national minimum wage?

The National Minimum Wage (NMW) sets the minimum hourly rates that employers must legally pay workers in the UK.

2 How much is the national minimum wage?

NMW levels vary, depending on your age and whether you are an apprentice. It is reviewed every year, with changes introduced every April. Since April 2022, the hourly national minimum wage rates are:

Hourly Rate	Hourly Rate
£9.50	Aged 23+
£9.18	Aged 21 - 22
£6.83	Aged 18 - 20
£4.81	Aged 16 - 17
£4.81	Apprentices (under 19, or in first year of their apprenticeship)

3 Who is eligible for the national minimum wage?

Employers must by law pay at least the national minimum wage to workers. This is a day one employment right and you don't need any qualifying service to be entitled to this rate. Even if you agree to work for less or your contract says you are entitled to less, you cannot contract out of this right and therefore you could have a claim irrespective of what your contract says.

4 What should your employer do about the NMW?

It's against the law for an employer to pay less than the NMW. If an employer has not been paying the correct minimum wage, they should resolve the problem as soon as possible. Your employer must also resolve any backdated non-payment of minimum wage. This is the case even if you no longer work for your employer.

Employers must also keep certain records showing the hours worked and payments made to workers. The records must be made available for inspection by workers or HMRC enforcement officers.

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5 If your employer isn't paying you the NMW, what should you do next?

If the minimum wage is not being paid by your employer you could raise a grievance, which is a formal complaint. If your employer doesn't deal with the problem, then you have two further options to explore. You can complain to HM Revenue and Customs (HMRC) or bring a complaint in the Employment Tribunal. But you cannot do both.

6 What can HMRC do to help me?

You can make a complaint to HMRC and this can be anonymous. The HMRC have enforcement powers and they can take action against an employer who is in breach of the NMW.

The HMRC has the following powers:

- They can issue a notice to your employer to pay money owed and they can go back up to 6 years.
- They can fine an employer in breach of the NMW up to £20,000. Those fines can be in excess of the underpayment.
- They can take legal action including criminal legal proceedings
- They can notify the Department for Business, Energy and Industrial Strategy (BEIS) who may put an employer found to be in breach on a public list. In effect to publically 'name and shame' the employer. Large employers, such as Waterstones, Schuh, House of Fraser and Matalan have recently appeared on the list, often due to 'technical' breaches of the rules.

7 Can I bring a claim in the Employment Tribunal?

You can claim for non-payment of the minimum wage. A claim is limited to the last 2 years. You must also remember to bring the claim within the time limit which is 3 months minus 1 day from the date of the last underpayment of the minimum wage. You may also be able to bring a breach of contract claim, which would allow claiming back up to 6 years.

You can also bring a claim for unfair dismissal or detriment (see below for further information).- The same time limit applies, you have just three months less one day to bring a claim for the date of dismissal or detriment with time running from each specific unlawful act.

8 Can I bring a claim if my employer treats me unfairly?

You could bring a claim in the Employment Tribunal if you are treated unfairly in the following circumstances:

- If you assert your right to the minimum wage, for example by raising a grievance with your employer about not being paid the NMW.
- If you make a complaint to HMRC or a claim to an Employment Tribunal about non-payment of the NMW.

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- If you become entitled to the higher rate of minimum wage (for example if you become a year older, for example attaining the age of 23 and therefore becoming entitled to the highest rate of NMW) and are treated unfairly as a result.

This type of claim is known as a 'detriment' claim and the purpose of this claim is to provide you with redress in circumstances where you are treated unfairly by your employer.

9 What is a 'detriment'?

A 'detriment' means treatment that leaves you worse off, some examples could be:

- Your employer overlooking you for promotions.
- Your employer saying no to training requests without good reason.
- Your employer reducing your hours of work.

If you are successful with a claim for detriment, the Employment Tribunal can award compensation that it considers 'just and equitable' in the circumstances.

10 Can I bring a claim if I'm dismissed for complaining about not receiving the NMW?

If you are dismissed for making a complaint about not receiving the NMW you can bring a claim for what is known as 'automatic' unfair dismissal. You don't need any qualifying service to bring this claim, this is 'day one' employment right.

If you would like further assistance with any questions about the National Minimum wage, please contact the Employment Department on 01302 965297 or fill out our online enquiry form.



Richard Lozano

Head of Employment Law

T. 01302 965297

E. Richard.l@taylorbracewell.co.uk

BREAK CLAUSES - WHAT YOU NEED TO KNOW

COMMERCIAL PROPERTY

Break clauses are a way of ending a lease part way through a term without either party (Landlord or Tenant) facing a penalty.

Not all leases contain break clauses and it is, therefore, important to seek legal advice on any lease you are thinking of entering into.

Notice is required when you are thinking of initiating a break clause and the lease will provide the requirements for issuing the notice i.e. the number of months required for notice. It is worth looking into putting a break clause into a lease, particularly if the lease is for over 5 years. As times change so might your individual circumstances, thus the importance of having the option to "break the lease".

Clear and concise drafting of the break clause is important. Poor drafting could lead to misinterpretation of the lease and thus cause issues around the "break".

Often the Landlord can place conditions on a Tenant before allowing them to "break" such as ensuring the rent is up to date. The Landlord may also restrict the break clause being used by any Tenant assignee or sub-lessor.

Our Commercial Property Team are always happy to help and answer any further queries you may have. You can reach the team by calling 01302 341 414.



Alison Turner

Head of Commercial Property

T. 01302 965 251

E. Alison.t@taylorbracewell.co.uk

- A review from Review Solicitors -

I wanted the writing of my Will to be as simple and straightforward as possible.

My solicitor Lauren made the whole process very easy for me, she really listened to me and gave me advice and information which helped me to complete my Will.



Lauren Smith

Partner & Head of
Wills, Probate & Trusts

T. 07780497116

E. Lauren@taylorbracewell.co.uk

HOSPITAL WAITING LISTS GROWING DUE TO BACKLOG

MEDICAL NEGLIGENCE

Unfortunately, delays in medical investigations, diagnosis and treatment can happen in any medical establishment but frequently include accident and emergency departments, GP surgeries and as recently reported by the BBC, general Hospital waiting lists has grown. Data released by NHS England shows that 6.72 million people were on the NHS waiting which is a considerable increase from before the pandemic.



It has been reported by the BBC that "One in eight (people are) on hospital waiting list as backlog grows". Given this statistic, it is possible that you or someone you know may have suffered avoidable harm owing to delays in medical investigations, diagnosis and/or medical treatment.

Treatment delays, often causes increased physical pain, suffering, damage and loss. In addition, people may experience an adverse emotional reaction to any delay and subsequent additional suffering.

In cases of serious illnesses or injury, any delay can have life long lasting consequences and sadly in some cases can be fatal.

It is reported by independent medical journals that delay in treatment of cancer can prevent it from being cured and reduce life expectancy.

Claims for treatment delays can include:

- Cancer
- Endometriosis
- Brain tumour
- Meningitis
- Sepsis
- Diabetes
- Thrombosis and blood clots
- Appendicitis
- Stroke
- Neurological disorders
- Retina detachment
- Encephalitis
- Bowel obstruction
- Strangulated hernia
- Fractures and other orthopaedic injuries

Claims for Medical Negligence involves complex legal and medical issues and we understand that the prospect of pursuing a case may seem like an intimidating idea. For advice on pursuing a claim, or if you would like to speak to a Solicitor, please do not hesitate to contact Robert Clarke on 01302 965252. Or alternatively, you can email robert@taylorbracewell.co.uk



Robert Clarke

Solicitor

T. 01302 965402

E. Robert@taylorbracewell.co.uk

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
- Residential 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



OFFICES



DONCASTER

17-23 Thorne Road, Doncaster, DN1 2RP

T: 01302 341 414

F: 01302 327100

[Find this office on the map!](#)

SHEFFIELD

The Stamp House,
52 Bank Street,
Sheffield, S1 2DS

T: 0114 272 1884

F: 0114 273 0357

BUSINESS HUB

1 Railway Court, Ten Pound Walk, Doncaster, DN4 5FB

T: 01302 360 060

F: 01302 360505

[Find this office on the map!](#)