

Brethertons BIG FAQs Series

Employment Law

If you have been seriously injured there will almost certainly be an impact on your employment. Whether the impact is just in the short term, or potentially indefinitely, it is important that you know what your rights are and where to get advice from.

Who might need Employment Law advice?

Anyone who has suffered a life changing injury may need to seek Employment Law advice about their employment situation, as they may find that because of their injuries, they are not able to work for a significant period after their injury, or that they may never be able to return to their previous employment.

What is Employment Law?

Employment Law is a set of laws which are intended to cover all aspects of employment. It includes laws relating to when someone may be dismissed, as well as what steps an employer must take to try and help someone to do their job after an illness or injury.

Why may Employment Law be important to me?

It is currently the law that if you do not have 2 years' service with your employer, they can in certain circumstances dismiss you for being unable to do your job, or for being absent from work for an extended period, if they give you the correct notice, and go through the correct steps to lawfully dismiss you. However, if you can show that you have a disability and are classed as disabled under the Equality Act 2010, then you do not have to have 2 years' service. You are classed as disabled under the Equality Act if you have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities. If that is the case, then your current employer, or a prospective employer must take your disability into account in trying to adapt your work or workplace so you can return to work.

Employment Law could of course also become important to you if after a successful compensation claim you decide to employ carers rather than rely on agency support.

Where can I get advice about Employment Law?

In life changing injuries litigation, it is always important to consider the employment situation both as it is currently and what it may be in future. It may sometimes be necessary to take specialist Employment Law advice from a solicitor separate of the claim being pursued, and if you need that help, then our Employment Law team will be able to help you.

More generally, you can get advice about Employment Law from several places. The Citizens Advice Bureau may be able to assist, as may a trade union representative if you are a member of a union. You can also look at the relevant pages from the government's website at Disabled people - GOV.UK (www.gov.uk).

When should I seek Employment Law advice and assistance?

You should look at getting advice as soon as your employer starts to suggest that they are going to manage your attendance/absence. As soon as this happens, you should also ask them to provide you with a copy of their sickness management policy, as it will be necessary to know what procedures they have in place and will be following. It is also important that you make sure you get someone to accompany you at any absence management meetings.

How will Employment Law affect my case?

If you are unable to continue in your pre-accident job, then we will be able to include any lost earnings as part of your claim. This is not a straightforward calculation but is worked out according to actuarial tables depending on your age, sex, education and whether you are classed as having a disability. It is particularly important that you do not take any steps regarding your employment without discussing it with us first. If you know that you will not be able to return to your pre-accident job it is vital that you let your employer, take steps to dismiss you, as opposed to resigning, as we do not want the other side to be able to suggest that you put yourself in that position, and that your employer would have continued to employ you.

If you would like any more information or have any questions, please contact:

Jon Rees - Partner - Life Changing Injuries

07772 081566

jonrees@brethertons.co.uk

Brethertons LLP Solicitors
Montague House
2 Clifton Road
Rugby, Warwickshire
CV21 3PX



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