

BFAWU Personal Injury Legal Service

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BFAWU Legal Services 0800 587 7518

Premier Foods employee suffers head injury after basic maintenance not carried out

A PREMIER FOODS employee, who was injured at work when part of machinery he was cleaning fell and struck his head, has secured £4,370 compensation with the help of the BFAWU and Thompsons Solicitors.

Johnathan Wain, a BFAWU member for eight years, was employed as a mixing-bay operator at the company's Stoke-on-Trent bakery. As part of his weekend cleaning duties, Johnathan was required to clean a cage in a mixing bay.

At the front of the machine is a stainless steel pipe, which is moved upwards when the machine is being cleaned. As Johnathan shut the cage door, the pipe suddenly fell and struck his head.

As a result of the accident, Johnathan suffered concussion, headaches, dizziness and blurred vision, which meant he needed seven weeks off work to recover.

After the accident, Johnathan contacted the BFAWU, who instructed personal injury specialists, Thompsons Solicitors, to pursue a claim of compensation.

Thompson's investigations found that a rubber seal was missing, which allowed the pipes to become loose and fall without warning.

As a result, Thompsons opened a claim against Premier Foods for failure to ensure a proper system of inspection and maintenance.

Following Johnathan's accident, actions were taken by the bakery to ensure that all the pipes were fitted with the rubber seals needed to stop them falling unexpectedly and causing injury.

A rubber seal was missing, which allowed the pipes to become loose

Employee compensated after fall

A TECHNICAL SERVICES operator at Premier Foods, who was injured in a fall while cleaning a bread oven, has secured £4,600 compensation with the help of Thompsons Solicitors and the BFAWU.

Paul Strange was asked to clean a large bread oven at the company's Avonmouth bakery. However, there was not a ladder or other safe means of access down onto the oven floor and he had to resort to standing on a crankshaft in order to clean it.

In doing so, Paul slipped and fell heavily onto the floor with his left shoulder taking the brunt of the fall. As a result, Paul suffered ligament damage to his shoulder and a soft tissue injury to his left wrist. While Paul made a full recovery, his injuries meant that he was absent from work for two months.

Following the accident, Paul contacted the BFAWU, who instructed personal injury specialists, Thompsons Solicitors, to investigate a claim of compensation on their member's behalf.

Thompson's opened a case against the factory for a failure to provide and maintain a safe system of work. Premier Foods admitted liability and Thompsons was able to negotiate the sum of compensation for Paul.

**BFAWU offers FREE legal advice and services
Freephone 0800 587 7518**



STANDING UP FOR YOU

Holiday – how much and where from?

IF YOU believed UKIP or The Conservatives you would think that the EU is all bad. However, your employer doesn't give you holidays out of the goodness of their heart.

Your legal entitlement to holidays comes from the Working Time Regulations 1998 (the Regs), which the UK brought in because of an EU Directive – the Working Time Directive (the Directive).

Under the Regs, employees are entitled to a minimum of 5.6 weeks' paid holiday in each leave year (subject to a maximum of 28 days) and four weeks of that comes from the holiday entitlement under the Directive. The Regs override any contractual term.

Payment for each week of holiday and the rate of a week's pay is calculated in accordance with sections 221-224 of the Employment Rights Act 1996 (ERA).

In 2004 the Court of Appeal considered the position in relation to overtime. In the case of *Bamsey -v- Albion Engineering and Manufacturing*

plc, the Court of Appeal held that an employee's normal working hours for calculating a week's pay (for the purposes of holiday pay) will only include overtime if there is a contractual obligation for the employer to provide the employee with overtime and for the employee to work that overtime.

Where either the employer does not have to provide overtime, or the employee does not have to work overtime, overtime will be discounted when calculating a week's pay and the "normal working hours" are then the remaining basic hours within the employment contract.

In a recent judgment of the European Court of Justice, another institution the Tories and UKIP would have you believe only deals with the shape of bananas or interferes with UK laws, it was decided that, for the four weeks' holiday that the Directive guarantees you (but not for the 1.6 weeks you get from the Regs), a week's pay is not limited to the worker's basic salary but should also include payment for tasks the worker

is required to carry out under their contract of employment – and that includes commission payments.

There have been several court decisions in relation to whether overtime payments should also be included in the calculation of what is owed when a worker goes on holiday. All those decisions are being appealed by the employers involved – because they lost! The appeals were heard by the Employment Appeal Tribunal this summer and we await the judgement.

A worker not paid their holiday pay in accordance with their legal entitlement can bring a claim for breach of the Regs and/or unlawful deduction from wages. Both claims would be made in the employment tribunal. The time limit to bring either claim is three months less one day from the date that the employer failed to pay the correct amount of holiday pay.

If you think you have been paid incorrectly while on leave, you should raise this with your BFAWU representative who will be able to give you further guidance on the issue.

Compensation for cyclist injured in RTA

A BFAWU member, who was hit by a car when cycling to work, has secured £13,500 in compensation with the support of Thompsons Solicitors and his union's legal service.

John Priestley was cycling along Watnall Road in his home city of Nottingham, when a car recklessly pulled out from a side road and knocked him off his bicycle. An ambulance was called and John was taken to Queen's Medical Centre in Nottingham.

The force of the collision and his subsequent fall caused soft tissue injuries to John's head, neck, shoulder, knees and lower back. Pre-existing back problems were also

exacerbated by the accident and he required several sessions of physiotherapy to aid his recovery.

His injuries meant he could not return to work for five months and he required six months in total to fully recover.

Following the accident, John contacted the BFAWU, who instructed Thompsons Solicitors to pursue a claim of compensation on his behalf. The driver's insurers originally offered just £7,500 in compensation to John but, on Thompsons' advice, this offer was rejected and, following extensive negotiations, Thompsons was able to secure almost double the original sum.

About Thompsons

Thompsons Solicitors is the most experienced trade union and personal injury law firm in the UK, dedicated to acting only for injured people and never for insurance companies and employers.

Please email newsletters@thompsons.law.co.uk to let us know if this newsletter was helpful and what topics you would like covered in future.



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