

FBU LEGAL REPORT 2013/14



STANDING UP FOR YOU



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The FBU recovered £3.35m in compensation in 2013 for its members and family members injured in accidents both at and away from work, including road traffic accidents.

Judicial Review

Cuts to London Fire Services

Seven London Boroughs have had their application for a judicial review of the decision made by the London Fire and Emergency Planning Authority (LFEPA) to adopt London Safety Plan 5 (LSP5) turned down. FBU had appeared as an interested party in support of the London Boroughs.

The original decision had been made under direction from the Mayor of London, following a recommendation by the London Fire Commissioner to adopt the plan. The ruling of the judge means that cuts will be made to front-line services in London with the number of fire stations and fire appliances reduced and the number of firefighters in the capital cut.

Employment Rights

FBU secure CPD payment for member

A member who was denied his Continuous Professional Development (CPD) payment because he had taken sick leave had the decision overturned thanks to FBU's legal service. Roger Haydon was entitled to the CPD payment if he met all 12 criteria in his appraisal. Roger had met all of the criteria with the exception of the attendance criteria because he had taken sick leave. It was on this basis that Shropshire Fire and Rescue Services (SFRS) denied him the payment.

Roger contacted his legal service who investigated his case. The unfair decision by SFRS was overturned at an Employment Tribunal and Roger was paid in full.

Services failed to consult union in TUPE transfer

FBU has secured £83,000 following two Fire Services' failure to adequately consult and inform the union with regards to a TUPE (Transfer of Undertaking (Protection of Employment) transfer.

The case arose following the TUPE transfer of staff from the Isle of Wight FRS to Surrey FRS in March 2012. Under TUPE, employers are obligated to inform and consult with the relevant trade unions as the representatives of affected employees ahead of any transfer.

However, in this case, both fire services had opted to inform their employees of the transfer through direct communications with the employees, rather than through the union, resulting in FBU being excluded from the process.

The case went to an Employment Tribunal but was settled on the second day of the hearing, following an admission by both Fire Services that they had failed to adequately inform and consult the union as required.

FBU appeal decision to transfer member

FBU has appealed the decision of an Employment Tribunal to uphold the transfer of a member who believed his line manager's decision to transfer him was due to his strong union affiliations.

Mr White was a highly regarded Watch Manager at Poplar Fire Station and the FBU Branch Secretary at Poplar since 2001. When his line manager left suddenly, the new line manager quickly raised concerns about Mr White's performance and influence on the station. Following some informal meetings, the decision was taken to transfer him to Leyton Fire Station in July 2011. As a consequence of this, Mr White could no longer continue as Poplar Branch Secretary.

Mr White brought a claim to the Employment Tribunal that his union activities, rather than his performance at work, were the main reason for his transfer to Leyton Station. The Tribunal unfortunately ruled against Mr White and FBU took the decision to appeal to the Employment Appeals Tribunal (EAT) in January 2014. FBU will keep members informed of the case.

Health and Safety: Deaths at Work

FBU continue fight for justice for Marlie Farm victims and families

Members will be aware of the tragic events of 3 December 2006 at Marlie Farm, East Sussex, when a fire at a fireworks factory reached an ISO container loaded with explosives causing an explosion which killed two firefighters and injured many others.

Claims were brought on behalf of fire service victims including two bereaved widows

The trial was heard at the High Court in February-March 2013. The judge, Mr Justice Irwin, produced a carefully drafted but resounding judgment in favour of the claimants in August 2013. However, East Sussex Fire & Rescue Service has regrettably chosen to prolong the suffering of the families and the injured claimants and has appealed that decision. The appeal will be heard in February 2015, nearly eight years after the event. FBU will continue to provide legal representation to strike down this appalling appeal and to keep members informed.

Settlements approved for families of Shirley Towers Firefighters

Cases have now concluded for the dependents of the two St Mary's firefighters who tragically died in the high rise fire at Shirley Towers, Southampton, in April 2010.

Judges at the High Court have approved the settlements which were negotiated on behalf of the families by the FBU's lawyers.

Personal Injury

Asbestos

Family of member who died from mesothelioma receive compensation

The family of a Newcastle upon Tyne retired firefighter who died from incurable asbestos cancer has received compensation for his death.

The 78-year-old worked at Pilgrim Street Fire Station in the centre of Newcastle for over 25 years, from 1960 - 1986. His health began to deteriorate rapidly from July 2011 and he was admitted to hospital suffering severe breathing difficulties and had more than 20 litres of fluid drained from his lungs.

He was diagnosed with mesothelioma, an incurable form of cancer that affects the lining of the lungs, on 1 August 2011 and died three days later. His widow contacted industrial disease specialists, Thompsons Solicitors, through the FBU, who investigated the family's claim. With the support of the FBU, Thompsons gathered crucial witness statements from former firefighters employed at the Pilgrim Street Fire Station, who described asbestos exposure from attending fires in local shipyards, factories and houses. This evidence was vital in linking the member's mesothelioma to his time employed at Pilgrim Street.

Member terminally ill with mesothelioma receives compensation

A retired FBU member diagnosed with cancer after being exposed to asbestos has received substantial compensation.

Gordon Young from Northumberland worked as a shipyard joiner before becoming a firefighter. He was employed at Blyth Dry Docks and Shipbuilding Co Ltd between 1959 - 1966. As a joiner he made furniture for ships and fitted out cabins, cut asbestos sheets to box in pipes and worked alongside ladders.

Between 1967 and 1994 he was a firefighter with Northumberland County Council and had further exposure to asbestos attending fires at power stations, factories and ship yards, often breaking through asbestos lagging to isolate the source of a fire.

He began to experience breathing difficulties in July 2012 and was diagnosed with mesothelioma, an incurable cancer, in November of that year. The FBU referred Gordon to industrial disease specialists, Thompsons Solicitors, who were instrumental in harnessing evidence from fellow FBU members describing the circumstances in which asbestos exposure took place.

Accidents at work

Severely injured firefighter secures unprecedented compensation

A firefighter who suffered catastrophic burns to over 50% of his body while searching for a child and her grandmother trapped in a burning building, has received compensation with the help of FBU's Legal Service.

Steven Morris, 38, was attending the fire in a domestic property in Bolton on 23 June 2008. The young child and her grandmother were still in the building when Steven and other firefighters arrived at the scene.

Steven and some of his colleagues entered the property without any water and went upstairs to search for the occupants. However, as they were doing this, there was an explosion, thought to have been caused by a gas pipe rupturing. Steven was engulfed in flames but still managed to get down the stairs and out of the house.

The child and her grandmother died in the fire which was subsequently found to have been deliberately started by youths setting fire to a wheelie bin and pushing it against the front door of the house.

Steven sustained terrible injuries including burns to over half of his body, particularly his hands, which were so badly damaged, he had to undergo amputations of his fingers and thumbs at varying levels. In addition to this, he suffered a fractured left elbow, as well as a brain injury which has affected his mobility. He also suffered from psychological trauma following the accident.

The FBU's solicitors, Thompsons, brought a claim against Greater Manchester Fire and Rescue Service for, amongst other things, failing to implement adequate command and control and BA procedures, provide adequate training and failing to carry out a dynamic risk assessment at the scene.

Thompsons obtained expert firefighting evidence and medical reports from several different specialists to support Steven's case and assess the impact of his injuries.

Greater Manchester Fire and Rescue eventually admitted liability after court proceedings were started and agreed to settle for £2.2m, thought to be the biggest settlement for a UK firefighter.

Training exercise accident

A member who was injured while taking part in a rope rescue training session has received £10,000 compensation. He was overseeing the rescue situation which involved communicating between the rescuer and the men at the top. He was resting his hand on the edge protector at the top of the rock face. As the rescuer was lifted the rope slipped across the edge protector and went into a crevice on the rock face taking his right index finger into the crevice. The injuries to his finger meant that it had to be partially amputated.

Faulty chair caused injury

A member who was injured in an accident at work when the chair she was sat in suddenly snapped causing her to fall backwards into the wall has received £1,800 compensation. As a result of the accident she suffered painful soft tissue injuries to her neck and shoulders.

Member injured after pushing trailer in icy conditions

A member was injured during the course of his employment when he was required to push a trailer which housed a vehicle whilst it was snowing and the ground conditions were slippery and icy. As a consequence, his foot twisted and he fell sustaining an injury to his knee. As a result of the injury, the member received £6,000.

Faulty hose lever resulted in injury

A member who suffered fractured ribs when he was removing a divider branch from a hose has received £3,500 compensation. To remove the divider branch, he would normally slowly release the pressure via the divider branch. However, on this occasion, the lever became stuck, which required him to use more force to open the valve. As he did so, the lever opened the valves too quickly forcing the large amount of pressure out. The member was consequently lifted off his feet and forced backwards over a nearby wall.

Faulty flasks caused scalding

A member was injured in an accident at work when replacing the flasks in the comfort pack at the back of the fire engine. The flasks were later found to be faulty and hot water leaked on to his arm causing him to suffer scalding to the inside of his left arm. As a result of the accident, the member received damages of £1,500.

Non-Workplace Accidents

Member collides with abandoned vehicle

A member who collided with an abandoned vehicle while driving correctly down a dark road in Surrey has secured compensation with the help of FBU's legal service. The vehicle had been abandoned in the middle of the road without any hazards or lights switched on to warn other drivers. As a result of the incident, the member was winded by a blow to the chest of the steering wheel, and suffered a cut to the neck caused by his seatbelt. He is expected to make a full recovery.

Member fractures ankle after slip

A member who fractured his ankle after slipping on ice in a supermarket car park has secured compensation. The member was walking across a road which split the car park and which had not been gritted. While the County Council initially disputed that it was they who held responsibility for gritting the road, the County Council eventually accepted the member's offer to settle the day before the trial.

Member injured by reckless driver

A member who was badly injured when a car collided into her vehicle has secured compensation with the help of FBU's legal service. The member was sitting as a passenger in her partner's car when another car which had been travelling in the next lane suddenly, and without warning, sped across the chevrons separating the two lanes and collided twice with the offside of the member's car. The member suffered soft tissue injuries to the neck causing a compressed nerve, which in turn resulted in paresthesia, and numbness and pain in her neck, upper back and arm.