

# TRUE STORIES OF BUSINESS REGRET

## STORY 4

### Neck & Shoulder Injury caused by Heavy Lifting & Carrying of Furniture

**Compensation: £62,350**

Mr. Winter, a 55 year old Council Services Operative had been employed by *Augusta Borough Council* for 25 years. He worked for the Bulky Collections department as part of a 2 man team collecting household items including washing machines, sofas and other heavy and awkward items.

#### The Task

On the day that Mr. Winter went off sick from work due to the neck and shoulder injury, there were 2 separate collections that both involved large sofas. The other member of the 2 man team was in his early 60s. Mr. Winter reported that this colleague was '*much weaker*' than him. The first large sofa was lifted from the resident's driveway and carried a short distance of 4 metres to behind the collection vehicle. The sofa then had to be lifted to their head height in order to throw the sofa into the vehicle. The second sofa had been left out overnight in the rain and therefore was heavier than it should have been. The sofa had to be lifted from the ground, then to above the resident's rear garden wall as the sofa couldn't fit through the rear gate exit. Mr. Winter reported that they lost control of the sofa and for a short time the weight of the sofa was supported on his head.



This is when Mr. Winter reported a sharp pain in his neck that '*shot like an electric shock*' down his right arm. Immediately following this he had to carry the sofa with his colleague up a steep grass verge where the sofa was then thrown (again holding at head height) into the collection vehicle.

## **Background**

Mr. Winter and his colleagues had reported to Council Management that residents were continually putting sofas out in the rain making them much heavier. Carrying sofas over walls was a regular occurrence each week due to the Council owned properties they were servicing. Mr. Winter and his colleagues were growing increasingly frustrated with the Management's lack of care for what they were facing every day. Mr. Winter had suffered a Road Traffic Accident (RTA) at the age of 41 where he was hit from the side by a car travelling 35 miles per hour. Since this accident he had suffered with regular neck spasms and multiple days off of work each year.

## **The Injury**

Mr. Winter had a pre-existing neck injury initiated from the RTA. He had suffered a herniated disc at the C5/C6 level of his neck at the age of 42.

The day after the carrying incident with the sofa, he attended his GP surgery where the Dr. '*pushed down on my neck*' which Mr. Winter reported recreated the exact pain he felt shoot down his arm the day before. After X-rays, Mr. Winter was diagnosed with osteoarthritis of his neck (at multiple levels) as well as osteoarthritis in his right shoulder (the acromioclavicular joint). He was offered neck and shoulder surgery to remove bony growths. He opted for the shoulder surgery only due to being informed the risks of spinal cord damage from the neck surgery, and resulting tetraplegia.

## **Making a Claim**

Mr. Winter saw a TV advert from a No Win No Fee Solicitor and he thought he *'might as well give it a go'* not expecting he would get any compensation. His Legal Team from *Go Win Solicitors* argued in Court that the Council's Health & Safety Manager had not sufficiently managed the Manual Handling risks that the Bulky collection jobs were giving, exposing their employees to a very high risk of injury.

## **The Settlement (the Business Financial Loss)**

The Judge acknowledged that Mr. Winter had previously suffered a neck injury 13 years prior but still awarded compensation of £62,350, combined for his neck and shoulder injuries. The Judge concluded that *Augusta Borough Council* had failed to communicate with residents in order to reduce risks to a reasonable level for their employees.

## **The Human Loss**

From speaking to Mr. Winter, he still suffers from daily neck and shoulder pain. He describes the neck pain as *'burning'* and is only relieved when his Wife gives *'it a rub'*. He takes 2-4 tablets of Tramadol every day. He can't take Anti-Inflammatory medication due to a history of a stomach ulcer. He doesn't like the Tramadol side effects as it makes him *'spaced out'* and *'not hungry'*. Before the injury his Wife and him had started playing bowls at their local club. Since the shoulder surgery he has not been able to play once due to the sharp pain still in the shoulder. He feels that he gave so many years of good service to the local Council, and at the Court appearance was disgusted at their treatment of him. With this he desperately wants to move to Cornwall, due to the anger it causes him seeing their Council vehicles. His Wife doesn't want to move.

## My Conclusion

I have seen this task of lifting sofas above walls at another Council. The same lack of communication with residents was happening there. You should not go to work and be exposed to jobs that will put you on a surgeon's operating table. I recommended Mr. Winter a rehabilitation routine for his neck and shoulder which he reported to me after a few weeks was helping with his pain. He said he was now hopeful he could come off the Tramadol and return to playing bowls with his Wife.

If *Augusta Borough Council* had actioned the following Manual Handling Risk Management plan then the £62,350 (of tax payers money) they paid out (not including their Legal Fees) could have been used towards fixing Council tax payments. There had been 3 rises of Council tax over the last 3 years.

**1). Effective Communication from Management with Residents.** More protection for the employees e.g. when sofas have been left out in the rain, employees can refuse the collection. Residents are to arrange that the sofa is put out on the street (possibly breaking up the sofa). If not, then there is no collection.

**2). On-the-job Manual Handling Training/ Coaching.** Mr. Winter had reported that the Manual Handling Training they had received was at the depot and the *'simple 2 person lifting of small sofas from the ground was not what they did'*.

**3). Manual Handling Risk Assessment Training.** This would allow improved 2 person (on the job and not documented) Task, Load and Environment Manual Handling Assessment (in line with the guidelines written in the HSE's Manual Handling Checklists within the Manual Handling Operations Regulations)

**4). Lumbar Support provision** for employees with pre-existing back injury.

**5). Access to Physical Therapy** local to where employee lives after musculoskeletal injury has been reported.

**6). Supply of Safety Shoes** that provide good shock absorbance. Mr. Winter said the shoes they supplied *'were like army boots.'*