Damages for inconvenience and distress

A fairly common question clients ask is whether damages can be awarded for distress and inconvenience. The simple answer is “yes” but, perhaps unsurprisingly, things are not quite that simple and a fairly straightforward case examining this issue went as far as the House of Lords back in 2001.

In the case of Farley v Skinner [2001] 4 All ER 801, Mr Farley was the buyer of a country estate. He employed a surveyor to investigate whether the property was seriously affected by aircraft noise. The central question was whether he could recover damages from the surveyor for failing to discover that the property was so affected.

Mr Farley wanted peace and tranquillity. On the basis of his surveyor’s statement that it was “unlikely that the property will suffer greatly from aircraft noise”, he went ahead with the purchase. The surveyor was wrong. Mr Farley gave evidence of how the aircraft noise interfered with his enjoyment of a “reflective breakfast, a morning stroll in his garden or pre-dinner drinks”. We can all sympathise with this! The House of Lords, who clearly know “real discomfort” when they see it, awarded £10,000 as compensation for distress and impairment of use and enjoyment.

It is well established that damages can be recovered for, say, a disappointing holiday. In Jarvis v Swan Tours Limited [1973] QB 233, Mr Jarvis booked a holiday from a brochure which assured him he would be in “for a great time” and which promised the ski holiday would be like a “houseparty”. Mr Jarvis was to be, however, the only guest. He was awarded damages, as the purpose of the holiday had been to give him pleasure and it failed to do so.

The Farley case goes a bit further and sees the Courts awarding damages for situations where physical inconvenience and discomfort is caused by the breach of contract and where the discomfort results from negligence on the part of a professional.

The Courts are continuing to go down the path of awarding damages for mental distress against professionals. In the case of Hamilton-Jones v David & Snape [2003] EWHC 3147, Mrs Hamilton-Jones issued proceedings for negligence against her solicitors because her husband had been able to take her children out of the country and keep them in his custody. The Court found that the purpose of her instructing the solicitors was to ensure she retained custody of the children for her enjoyment and peace of mind. An award of £20,000 was made for mental distress.

There are also examples of the Courts awarding damages for inconvenience and distress against solicitors even where the object of the contract was not the provision of “peace of mind”. In Wapshott v Davis & Donovan [1996] PNLR 361, a negligent conveyancing solicitor failed to pick up that an extension had been built on neighbouring land rendering the property unsaleable. The family were therefore stuck in a flat that was far too small for them and damages of £3,000 were awarded for the inconvenience and distress of having to live in an overcrowded flat.
Damages for inconvenience and distress - DMH Stallard (Solicitors) - London, Gati... 25/09/2007