

1. Respondent
2. J. N. Clayton-Wright
3. First
4. JNCW1
5. 1 April 2010

IN THE HIGH COURT OF JUSTICE

Claim No: HC10C00682

CHANCERY DIVISION

Between:

The Office of Fair Trading

Claimant

- and -

(1) Ashbourne Management Services Ltd

Respondents

(2) John Clayton-Wright

(3) Dawne Clayton-Wright

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TERMS AND CONDITIONS

1. Membership

If you sign this agreement, you will become a member of the club that is referred to overleaf. This agreement sets out the terms that will govern the relationship between us, the club that is referred to overleaf, and you, a member of our club.

2. The Minimum Membership Period

You have chosen the "Minimum Membership Period" referred to overleaf.

YOU ARE LIABLE TO PAY THE MEMBERSHIP SUBSCRIPTION EVERY MONTH FOR THE DURATION OF THE MINIMUM MEMBERSHIP PERIOD AND WILL BE OBLIGED TO DO SO UNLESS (A) YOU ARE ENTITLED TO TERMINATE THIS AGREEMENT (B) YOUR CIRCUMSTANCES FALL WITHIN ONE OF THE EXCEPTIONS SET OUT BELOW OR (C) YOU TRANSFER YOUR MEMBERSHIP TO ANOTHER PERSON.

What happens if want to bring my membership to an end before the minimum membership period has ended?

You are not entitled to bring your membership to an end during the minimum membership period unless (a) you are entitled to terminate the agreement; (b) you prove that you have lost your job, are unable to use the gym for a medical reason, the location of your main place of work has changed or you have moved to a new area; or (c) you transfer your membership to another person.

What happens if the facilities or the services provided by the club fall well below the standard that I reasonably expect?

You may terminate this agreement at any time if the facilities or the services we provide fall well below the standard that you reasonably expect us to provide.

What happens if I lose my job, am unable to use the club for a medical reason, the location of my main place of work changes or I move out of the area during the minimum membership period?

We will suspend your membership during the minimum membership period if and when you provide written confirmation that (a) you have lost your livelihood and are in receipt of income support or (b) you provide a letter from your GP to prove that you have been advised not to use the gym for a medical reason. We will review your circumstances after 2 months. If your circumstances have not changed, we will suspend your membership for a further 2 months unless you tell us that you would prefer to cancel your membership which you may do without any further obligation on your part. Whilst your membership is suspended, you will be relieved of your obligation to pay a monthly membership subscription and we will be relieved of our obligation to allow you to use the facilities at the club. Suspension will not affect the date when the minimum membership period ends.

We will cancel your membership during the minimum membership period without any further obligation on your part if (a) you provide a letter from your GP to prove that you have been advised not to use the gym for the foreseeable future for a medical reason; (b) you provide written confirmation (e.g. a letter from your employer) to prove that the location of your main place of work has changed; or (c) you provide written confirmation (e.g. utility bills) to prove that you have moved more than 15 miles from your old address.

How can I transfer my membership?

We will transfer your membership to another person during the minimum membership period if (a) he or she agrees to become a member for the remainder of your minimum membership period; (b) he or she agrees to pay an induction fee of £25 and (c) he or she is introduced to us by you.

What happens if I fall into arrears with my membership subscriptions during the minimum membership period?

We will be relieved of our obligation to allow you to use the facilities at the club if (i) any payment is more than 7 days overdue and (ii) you have not come to an agreement with Ashbourne Management Services Ltd to make supplementary payments in addition to your membership subscription to repay the arrears within a reasonable period.

Your membership subscriptions will continue to fall due throughout the minimum membership period even though you may not be entitled to use the facilities at the club.

If you become liable to pay a membership subscription during the minimum membership period that relates to a period during which you were not allowed to use the facilities at the club, we will grant you free use of the facilities for an equivalent period after the minimum membership period has ended provided (i) you pay the membership subscription in question and (ii) we have not terminated your membership in accordance with clause 5 in the meantime.

What happens at the end of the minimum membership period?

Your membership will automatically be extended once the minimum membership period has ended for consecutive one month periods at the same monthly subscription unless (a) this agreement has already been terminated or (b) you have exercised your right to cancel your membership at the end of the minimum membership period without further obligation on your part by giving at least 1 month's prior written notice of your intention to do so.

What happens if I want to bring my membership to an end after the minimum membership period has ended?

You may cancel your membership without further obligation on your part provided you give us at least 1 month's prior written notice of your intention to do so.

3. Cancellation

Either party may cancel your membership by (a) giving at least 1 month's prior written notice before the end of the minimum membership period or (b) by giving at least 1 month's prior written notice at any time thereafter.

4. Payment

The initial payment specified overleaf and all subsequent membership subscriptions must be paid in full to Ashbourne Management Services Ltd.

All subsequent membership subscriptions are payable at the beginning of the month to which they relate.

Please note that additional charges may be required for certain services (e.g. sauna, massages, physiotherapy etc.).

We will be relieved of our obligation to allow you to use the facilities at the club if (i) any payment is more than 7 days overdue and (ii) you have not come to an agreement with Ashbourne Management Services Ltd to make supplementary payments in addition to your membership subscription to repay the arrears within a reasonable period.

If you fail to make a payment Ashbourne Management Services Ltd is authorised to act on our behalf in all respects relating to the recovery of any sums due from you and may recover the same in its own name.

If you fail to pay 3 consecutive membership subscriptions, you agree that Ashbourne Management Services Ltd may register your arrears with a credit reference agency.

5. Termination

This agreement may be terminated at any time by either party as set out below.

You may terminate this agreement at any time if the facilities or the services we provide fall well below the standard that you reasonably expect us to provide.

We may terminate this agreement at any time if (a) your treatment of another club member or a member of the club's staff falls well below the standard of consideration that we reasonably expect; (b) having been asked to remedy your conduct you fail to do so within 7 days of the receipt of a written warning; or (c) having been asked to remedy your conduct you do the same thing again within 6 months of the receipt of a written warning.

6. Your Responsibilities

You must treat all club members and staff with the consideration that you would reasonably expect them to show to you. In particular, you must not make remarks that are rude or offensive or behave in a manner that is dishonest, aggressive or indecent.

7. **Your Rights**

We will be liable to compensate you if you suffer a personal injury or die as a result of our negligence. We will compensate you if you suffer any other loss as a result of our failure to carry out our obligations under this agreement, provided that (a) our failure did not occur as a result of your own fault or (b) our breach could not have been avoided even if we or those acting on our behalf had taken reasonable care. Nothing in these terms will affect your statutory rights. If you need further information about your statutory rights contact a Citizen's Advice Bureau.

8. **Data Protection**

If you fail to pay 3 consecutive membership subscriptions, you agree that Ashbourne Management Services Ltd may register your arrears with a credit reference agency and pass on that information to other financial organisations. Subject to that exception, your personal details will not be disclosed to outside organisations and/or individuals without your written consent. You are entitled to see what has been registered about you and to insist that inaccurate information is corrected.

9. **Notices**

Notification must be given in writing.

You may notify us. However, we recommend that you notify Ashbourne Management Services Ltd instead. You may notify us at the club. You may notify Ashbourne Management Services Ltd at the address overleaf or such other address as it may provide to you in writing.

We or Ashbourne Management Services Ltd may notify you at the address overleaf or such other address as you may provide to us or Ashbourne Management Services Ltd in writing.

10. **Jurisdiction**

This agreement will be governed by the law of England and Wales. Any disputes arising under it must be dealt with by the courts of England and Wales.