

SNOW AND ICE – AND EMPLOYMENT RIGHTS!

(First published in the Herts Director, February 2011)

Early onset of winter snow has again caused many employers significant operational difficulties. It has also given rise to important questions as to their legal obligations towards employees in times of adverse weather disruption, the main one being whether employers are obliged to pay employees who cannot make it into work.

Generally speaking, an employer is not obliged to pay an employee who cannot make it into work because they are 'snowed in', although contracts of employment or staff handbooks sometimes expressly state that an employee will be paid in such a situation. In those rare cases there clearly would be an obligation to pay. If employers have historically paid employees unable to get to work in adverse weather, the right to salary may have been implied into their contracts by 'custom and practice'. Employees have a right not to suffer unlawful deductions from their wages – but the general rule is no work, no pay.

If an employer is forced to temporarily close its office due to severe weather conditions, it should pay staff unless the employment contract says otherwise.

It is important to look at all options and to settle on a clear and consistent policy as to how to address adverse weather situations. One option is that any time off work in such circumstances will be unpaid but this could have an adverse impact on staff morale and productivity in the long term. Conversely, paying all employees regardless of whether they attend work could lead to resentment from those who brave the elements and make it to work. Their efforts should be borne in mind. A compromise might be that all employees will be paid but those that don't attend work are expected to make up their time at a later date or that employees who would otherwise not be paid are allowed to take the time off as paid annual leave. Employees cannot be forced to take holiday but the employee may prefer to do so instead of being paid nothing. Of course, working from home is another potentially feasible option.

Employers should remember that employees with dependants have a statutory right to unpaid reasonable time off because of unexpected disruption to childcare, such as school closures or unavailability of childminders. Employees are entitled to take unpaid time off to make appropriate arrangements.

Employers should think carefully about introducing an 'adverse weather policy' which should address the issues of pay, working from home and remote IT access, communicating non-attendance and guidance on workplace closures. Consistency is all important. If unsure, employers should take advice.



Hitchin Office, 7/8 Portmill Lane, Hitchin, Hertfordshire SG5 1AS

Tel: 01462 628888 | Fax: 01462 631233

Welwyn Garden City Office, Gate House, Fretherne Road, Welwyn Garden City, Hertfordshire AL8 6RD

Tel: 01707 887700 | Fax: 01707 887701

www.hrjlaw.co.uk