

## In the Know...

# When Weather Affects Work



**Extreme weather conditions of various types e.g. snow, rain, wind can affect the normal running of operations. Employee absence and pay for time away from work is the most common issue so, here, we take a look at employers' legal position.**

### Employee Cannot Get To Work

- Employees may not be able to get to work for a number of reasons connected with the weather, for example, roads are closed or public transport has been cancelled;
- Unless the employee has agreed with you in advance that the time will be covered by, for example, annual leave, then the usual position is that the employee receives no pay for the time they are absent due to bad weather;
- This is the case even though circumstances are beyond the employee's control. It is the employee's responsibility to get to work on time and there is no reason to treat lateness/absence for bad weather differently than normal lateness/absence. You can, naturally, show more leniency at your discretion if you wish but you should be consistent across all employees.

### Alternatives To Maintain Payment

You may choose to agree that any absence is covered under a different heading, for example:

- Agreeing a short notice annual leave request;
- Agreeing that banked lieu hours are used;
- Agreeing that the employee works from home if facilities will allow;
- Enforcing annual leave on an employee, however, there are specific notice requirements attached to this and therefore it is not practicable for a small number of days' absence.

### If The Workplace Cannot Open

- In the situation is that the workplace is not able to open because of bad weather, the situation is different;
- Your employees will be entitled to full pay provided that they themselves are able to or would be able to get to the workplace;

- However, a contractual right to lay off means that you will be able to place employees on lay off i.e. provide no work for them and this will be unpaid;
- Employees on lay off who have at least one month's service are entitled to receive Statutory Guarantee Pay (SGP) for a maximum of one working week per 3 month period. The current rate of SGP is £26 per day or the employee's normal daily rate if that is lower;
- Contracts of employment may include the express right to lay off but if they do not, it is worth attempting to agree lay off with employees at the time;
- Reducing pay to nil where there is no agreed lay off provision will entitle employees to make a claim to Employment Tribunal for an unlawful deduction;
- You should keep in touch with employees on lay off to keep them updated on when work may become available again.

### Time Off For Dependents

- Although your workplace may remain open and transport links are operational, some employees may be absent from work because their child's school/nursery has had to close;
- Employees have a right to a reasonable amount of time off for dependants in an emergency situation where normal care arrangements break down. This is without pay;
- One or two days is normally sufficient to cope with the emergency status of the breakdown in arrangements and you should seek to agree how any longer amount of time off will be treated e.g. annual leave.

For further advice or for a free consultation please contact our team of specialist consultants on **0800 028 2420**.