

Recruitment Industry Update



SNOW DAYS: The cold, the chaos and careful considerations



As a member of the REC, Recruitment & Employment Confederation, we are committed to keeping up to date with industry news and, as such, have put together a brief update for you too. We hope you find it useful.

When you think about snow, most people might think of snow as a bit of fun, making snowmen with family and friends, throwing snowballs, sledging and celebrating the prospect of a “white Christmas”.

However, for employers, snow can present a plethora of legal issues along with trying to strike a balance between work production levels and staff morale. Here are some of the key issues you might need to think about:

PAYING EMPLOYEES WHO CAN'T GET TO WORK

Employees are obliged to come into work unless they have otherwise agreed with their employer, are sick, or on authorised leave. Regardless of weather, if the office remains open, employees should make every reasonable effort to make it into work and if they fail to attend employers could argue that their absence is unauthorised and therefore a breach of contract. This could also be seen as a bit harsh though!

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EXAMPLE: An employee is unable to make it into work due to transport disruption and their normal mode of transport is not available. In these circumstances, if there are other means of transport that the employee could use then this could be encouraged, but will also need to be balanced with health and safety concerns to ensure that employees do not take unnecessary risks to attend work. If it is dangerous for employees to attempt to travel to work, the employer has a duty to advise employees on appropriate actions to take to safeguard their health and safety. One example might be allowing employees to work from home.

WORKING FROM HOME

Working from home on “snow days” could be a very feasible solution given the ease of access to email and other office applications. However, employees must appreciate that they are still expected to perform all of their normal work duties, as far as possible, and employers should be reasonable in their expectations and offer support through provision of required resources.

MAKING DEDUCTIONS FROM EMPLOYEES' WAGES

Under the Employment Rights Act 1996, employees have a statutory right not to suffer unlawful deduction from wages. However, where an employee refuses or is unable to perform all of their duties, they could potentially lose their entitlement to part of their wages. That being said, there must be an express clause in the employee's employment contract that gives the employer the express right to make deductions in those circumstances.

If employers make excessive deductions they leave themselves open to potential claims for unlawful deductions or breach of contract claims, or both. They could also leave themselves exposed to claims under the national minimum wage legislation if deductions cause them to fall below the national minimum/living wage.

It is worth looking at alternatives, such as agreeing that employees will take “snow days” as part of their annual leave entitlement or treat it as unpaid or other leave, depending on the circumstances.

EXAMPLE: If a school is closed at very short notice (highly likely on a “snow day”) an employee may not be able to make alternative care arrangements and therefore have a statutory right to take time off for those reasons. Strictly speaking this leave would be unpaid but some employers may decide to offer a goodwill payment to maintain a good working relationship.

Taking into account all of the above, employers may find it useful to have an action plan or policy in place to set out exactly what will happen in the event of a “snow day”.

If you would like any further information on this or any other recruitment issue please don't hesitate to call us on 01482 650399

AH Recruitment Ltd — IT, Sales & Support Staffing Specialists

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