



Let it snow!

Having a bit of snow is great fun if frolicking about in Richmond Park, but the rather unusual weather conditions have given rise to employee absence which has led to disruption for a number of businesses.

Employers are entitled to encourage employees to explore their various options in getting to work. However, they also have a duty of care to their employees and should not pressurise them to risk their health and safety getting to work. If working from home is an option and is possible, then this should be considered. The general legal position, in the absence of any contractual obligations or policies, is that employees are entitled to be paid wages for the work they have done.

Therefore, if an employee cannot come into work or carry out the work that they are paid to do, then the employer is not obliged to pay them. Similarly, if the employee does not work all their contractual hours, then an employer would be entitled to deduct wages pro rata.

Where the contract or workplace policy provides for these situations, then of course this should be followed. In practice however, few contracts will provide for this. Employees are protected in law from unauthorised deductions from wages without their consent and an employer who deducts pay in these circumstances could face a claim. It is advisable that care (and advice) should be taken in these situations.

An employer should therefore assess whether or not paying employees in these circumstances would be in the best interests of the business. An employer may choose to exercise their discretion and pay employees, as a gesture of goodwill. However, it may be that the financial burden is outweighed by the benefits that such a gesture would have on staff morale and productivity in the long run.

Alternatives might include employers and employees deciding together whether an employee who cannot attend work because of adverse weather conditions should either take the time as paid leave or make up any lost time, perhaps within a reasonable period.

Employers also need to be mindful that employees have the right to unpaid time off for emergencies to care for their dependants – these include spouses, civil partners, children, parents or those who rely on the employee for assistance or to make arrangements for the provision of care. Strictly speaking, a school closure does not automatically entitle an employee to take unpaid time off from work, but, if the closure is at very short notice and childcare arrangements cannot be made at short notice, then this could be seen as constituting an emergency situation and parents would be protected from suffering a detriment for taking the time off.

If an employer decides to temporarily close the office at short notice because of unforeseen circumstances, such as heavy snowfall, and there is no work available for employees as a result, an employer cannot usually withhold pay.

With occurrences of adverse weather conditions becoming much more apparent, putting in place a clear weather policy could be a worthwhile investment.

**Happy New Year to you all. We wish you a happy, healthy and prosperous
2010.**

For further information on this or any employment issues please contact the colemans-ctts [Employment Team](#) or Telephone – 0208 296 6846