

Should Snow Stop Pay?

December 6th, 2010

Not only is the snow an immediate concern, but it looks as though we are going to have to get used to dealing with it every year for the foreseeable future. So it is worth planning to manage absence due to extreme weather conditions by making it part of your Employment Policies and Procedures as it can reduce costs and improve efficiency.

The Legal Position:

The legal position is that if your business has stayed open despite the snow then it is your employees' responsibility to get to work. If they don't turn in for work due to the snow (and therefore don't provide work in return for pay) then, unless it says differently in their contract of employment or you have implied otherwise in practise, you don't have to pay them.

If you don't pay your employees when they are entitled to be paid they can make a claim to a tribunal on grounds of 'unlawful deduction from wages' and in some circumstances, if the under payment is significant, they may even seek to treat it as a fundamental breach of contract and therefore grounds for constructive/ unfair dismissal.

Furthermore, if you pick and choose which employees to pay and which not to pay in these circumstances you could be opening a can of worms in terms of discrimination so be careful and take advice first.

Childcare Arrangements:

As many schools are closing during the extreme weather conditions employees responsible for child care arrangements may request emergency leave as a statutory right. Statutory emergency leave is unpaid as a rule but if you have made other contractual arrangements or implied otherwise in practise employees in this position may claim full pay. Therefore, be sure to check the employee's contract and previous decisions in similar circumstances before refusing to pay for this type of leave.

Company Shutdown During Extreme Weather Conditions:

If you close your business temporarily for whatever reason, including closure due to extreme weather conditions, this falls into the category of 'lay off'. If you have a contractual right to lay off your employees they will be entitled to 'statutory lay off pay' which is a fraction of full pay. If you have chosen not to include lay off provisions, then your employees will be entitled to full pay for the duration of the shutdown. Note that the majority of employers do not include the right to lay off in their employment contracts because it is regarded as de-motivating and can prove a barrier to recruitment.

The Practical Position:

Refusing to pay your employees won't create much goodwill among your workforce so it may be better to pay the price and support them now so that they will return the favour when you

need one (hopefully!) However, many employers cannot afford to pay employees on snow leave especially if demand for products and services has dropped at the same time.

Your Options Going Forward:

You could consider more practical and mutually agreeable solutions especially if you want to avoid setting a precedent for 'paid snow leave' each year. For example, employees may prefer to swap 'unpaid snow leave' for 'paid holiday leave' and in some cases working from home can be a practical solution.

There are few important factors to take into account and we can insert a policy into your Employment Policies and Procedures to make sure a move to 'Homeworking' doesn't backfire on your company. The policy covers all eventualities including performance and quality issues, health and safety and equipment issues.

Whatever you decide, whether you are a member of [Pitmans' HR Partner](#) or not, you can ensure that employees know what is expected of them during these extreme weather conditions by asking us to draft a policy especially for your business. Why not take the initiative?

If you would like more information on the above or if you would like to discuss how this might affect you and your business, please do not hesitate to visit the [Pitmans Employment](#) website, or contact our team direct.

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