

## Adverse Weather and Employee Travel Disruptions

This newsletter highlights some practical steps businesses can take, to reduce the risk of adverse weather affecting an employee's travel to work.

### **Disruptions?**

Extreme weather conditions, industrial action on public transport networks and cancelled or delayed flights and transport may prevent employees from getting to work.

### **What are the alternatives if an employee cannot get to work?**

- Homeworking and other workplaces

Consider whether working from home is an option for some employees. Employees should plan ahead and consider taking work home if disruption is forecast. If the business operates at more than one site, consider sending employees to a more accessible site nearer to their home.

- Workplace closure

In some cases, depending on the weather conditions or the number of stranded employees, it may not be economical or even safe for a workplace to remain open. Any employees with contractually guaranteed hours or salary will still have to be paid if they are ready and willing to work, unless the business can rely on contractual terms such as a lay-off clause.

- Paid annual leave

The business could offer its employees the opportunity to take the absence as paid annual leave, assuming they have sufficient entitlement remaining.

- Time off for dependants

Employees have a right to take a "reasonable" amount of time off because of the unexpected disruption or termination of a dependant's care arrangements. Bad weather or other disruption might lead to a school or nursery being closed with the result that an employee has to take the day off to look after children in any case.

In these circumstances, a business cannot force the employee to use up their paid annual leave entitlement, and must not subject the employee to any detriment as a result of exercising this right.

**If you would like to discuss any of the matters raised in this newsletter please contact:**

Michael Sutton  
[ms@blackgraf.com](mailto:ms@blackgraf.com)

Jane McKee  
[jmk@blackgraf.com](mailto:jmk@blackgraf.com)

**Tel: 020 7586 1141**

*The information in this newsletter is not meant as a substitute for advice on particular issues and is written in general terms. You should seek specific advice before taking any action based on the information in this newsletter.*

Black Graf LLP 100 Baker Street London  
W1U 6WG

Black Graf LLP is a Limited Liability Partnership registered in England and Wales registration no: OC334046. Any reference to a partner is to a member of Black Graf LLP. Authorised and regulated by the Solicitors Regulation Authority no: 488394  
[www.blackgraf.com](http://www.blackgraf.com)

*This article outlines the law as it stands at the date of writing in November 2014.*

- Making up the hours

A business could ask employees who do not want to take annual leave or unpaid leave to make up the lost hours on other days. If the business operates a flexi-time scheme or an annualised hours scheme, the terms of the scheme may already allow this sort of solution. Even where there is no such scheme, the business could reach an agreement with its employees over the lost hours.

- Time-limited paid leave

While a business may balk at the idea of giving unlimited paid leave to stranded employees, an alternative is to give limited paid leave, after which employees must either take unpaid leave, make up the lost hours, or agree to count it against their paid annual leave entitlement. For example, the business may limit paid leave to one or two consecutive days' absence, or (for instance) three days in any year.

#### **Practical steps to help reduce business risk?**

- Develop a business continuity plan by analysing the potential risks to the business (and their likely effects), and formulate a strategy to combat them. Plan for worst-case scenarios and the plan should work for more minor disruptions.
- Given the potential for legal uncertainty, consider including a clause in employment contracts to specifically authorise deductions from wages.
- Implement a policy setting out how the business will deal with adverse weather and other major travel disruptions.
- Publicise the policy internally before any likely period of travel disruption, and ensure that all staff and managers are aware of their responsibilities.
- Decide whether employees will be paid if they cannot make it to work, and ensure any guidance is applied consistently.
- Consider the employee relations angle. Deducting pay may harm morale, but paying absent employees may also lead to resentment by those who struggle in, unless they feel their efforts have been recognised in some way.