



SPECIAL ADVERSE WEATHER & EMPLOYER/EMPLOYEE RIGHTS BULLETIN

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Weather Chaos—General Guidelines

Weather warnings, school closures, commuter chaos – snowfall causes havoc across much of the country. While the bad weather is the hot topic of conversation, employers are left counting the cost of disruption.

Many of you have asked me for some guidance, so I outline below some general guidelines, but please remember as an employer you have a certain duty of care and the current weather has been unusual, although I will be looking at the legal aspects of this in greater detail, as it does appear to be becoming a more common theme - but it is really all about common sense and communication – please contact me if you have any individual issues.

1) There is no obligation to pay employees who fail to attend work or who arrive late due to disruptions to public transport for the missed time, unless there is specific provision for such absence to be paid in the contract of employment. The onus is on the employees to get to work and the obligation to pay under the contract of employment arises only where they are ready, willing and available for work. If employees fail to turn up for work or turn up late in these circumstances, the employer is under no obligation to pay them for time not worked,



even though their absence or lateness was through no fault of their own. A failure to pay an employee in this situation is not an unlawful deduction of wages under the Employment Rights Act 1996, section 13 because there is no contractual right to any such payment.

2) However, if employees are having problems getting to work due to public transport disruptions, the employer may wish to consider making some accommodation for them. The employer should first encourage the employees to explore alternative means of transport, for example other public transport options, walking, cycling, travel by car or car-sharing with other employees.

If an employee is still unable to attend work, the employer may wish to give consideration to whether the employee could usefully work from home or from an alternative local office until

the travel situation improves, or whether the time could be made up at a later date.

If these are not viable options, the alternatives available for the employer are to advise the employee that any time off work in these circumstances will be unpaid, paid or paid on a discretionary basis but in exceptional cases only. The employer could also suggest that the employee take paid annual leave if he or she wishes to be paid for the time off. An employer cannot insist that an employee take annual leave without the requisite notice but there is nothing to stop it asking if an employee would like to take a day's holiday because of being unable to attend work on that day.

For further guidance please contact me: Christine Perrin, Chartered MCIPD, Director, Tel: 01428 717667
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