

Employment rights when it snows.

Snow can be great fun. However, the adverse weather we are currently suffering can be a headache for employees and employers alike with many employees struggling to get into work.

Bennett Griffin LLP's specialist team of employment lawyers have put together this guide to explain what you need to know about the impact of bad weather conditions.

As sub zero temperatures look set to stay, what protection from the cold should be provided for employees?

For workers who work inside, certain regulations set out the rules on workplace temperatures. The general rule is that the temperature in workplaces should be at least 16 degrees Celsius.

There is no legal minimum outdoor working temperature so employers need to rely on risk assessments. In very cold weather, outdoor workers face two major health problems: hypothermia and frostbite. There is therefore extensive [HSE guidance](#) about protective clothing for cold weather, health issues and management guidelines.

Do employees who are unable to get into work due to snow and difficult transport conditions have to be paid?

Employees are obliged to attend the office unless they are sick, on holiday or on maternity leave etc. The onus is on employees to attend their place of work.

Technically, this applies even in extreme weather conditions. Therefore, if employees cannot make it into work because they are 'snowed in', one view is that an employer is entitled to treat the absence as unauthorised and is under no obligation to pay the absent employee. However, few contracts of employment will state that employees who cannot get into work because of the weather will lose a day's pay. Employees have statutory protection against an unauthorised deduction being made from their wages without their consent and therefore a deduction from pay could be challenged as an unlawful deduction under these provisions.

However, an employee should not feel under pressure to risk their safety to get into the office so it may be sensible for employers to consider the offering employees the following alternatives:

- working from home until the weather situation has improved.
- Unpaid time off work (ideally, you will have a contractual provision to support this); or
- Paid time off with the condition they will be expected to make up the time at a later date; or
- Taking the time off as paid annual leave or as unpaid time off for dependant's leave (e.g. if schools close – see more about this below).

Can an employee who cannot get into the office be forced to take a day's holiday?

Unless the contract of employment contract contains an express right for the employer to direct when their holiday is taken, employers cannot force employees to take a day's holiday without their consent.

My child's school is closed – do I have to attend work?

Employees have a statutory right to take time off when there is an 'unexpected disruption to childcare' and parents are protected from suffering a detriment for doing so.

Arguably, a school closure is not the same as a disruption to 'childcare'. However, if the school closure was announced at short notice and alternative childcare arrangements cannot be made, this could be viewed as an emergency situation and employees would be entitled to statutory protection for taking the day off. In such circumstances the absence would be unpaid. Paid leave is at the discretion of the employer.

What if an employee uses the snow as an excuse not to go to work?

An employee who uses the weather conditions as an excuse for absence (or lateness), particularly if they live locally, risks facing disciplinary action.

In blatant or persistent cases employers may want to investigate and take any necessary action in line with the company's disciplinary policy.

What are the implications of the office closing due to the adverse weather conditions?

If the office is closed at short notice because of unforeseen circumstances, such as heavy snowfall, and there is no work available for your employees as a result, an employer cannot usually withhold pay as such a deduction could once again amount to an unauthorised deduction from wages.

Reducing the impact for businesses

Every year businesses are affected by 'unexpected' heavy downfalls of snow. Employers may want to consider introducing an 'adverse weather policy' so both employers and employees know what is expected when severe weather strikes. Putting in place a clear adverse weather policy to cover unexpected absences could be a worthwhile investment and will also help avoid confusion when the snowfall arrives .

The advice contained in this article is not a definitive statement of the law in any area. Advice should be sought from a solicitor in respect of any information that affects any individual matter with which you may be concerned.

For further employment advice please do not hesitate to contact one of Bennett Griffin LLP's specialist employment solicitors by emailing employment@bennett-griffin.co.uk or telephoning Charlotte Hammond on 01903 706981 or Elaine Smith on 01903 706966. Alternatively visit our website for further information www.bennett-griffin.co.uk

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