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## JANUARY 2010 HR NEWSLETTER

Welcome to our first HR newsletter of 2010 providing you with useful information regarding changes to employment legislation and best practice.

### Extreme Weather Conditions

The cold snap caused complete chaos throughout the UK bringing extreme weather conditions including heavy snow. Many companies were adversely impacted as a result, with employees unable to get to work due to difficult travelling conditions, which was compounded by school and other child care facilities closing during the worst affected days.

Many Companies implemented strict policies in respect of time off for individuals who were unable to get to work as a result of the impact of the adverse weather conditions. From a statutory perspective employees are able to take unpaid time off for dependants so that the employee can deal with emergencies involving a 'dependant' – this could be the employee's husband, wife, partner, child, parent, or anyone living in his/her household as a member of the family. This would cover situations where the employee needs to care for the dependent due to other care arrangements being disrupted due to the weather.

However, there is not a statutory right to time off just because of adverse weather unless it falls under the definition as described above. Companies need to give careful consideration to their policies in respect of this and what action should be taken in preparation for such conditions, actions may include:

- whether the Company will treat such time off as paid or unpaid and if the time off is paid is this subject to an upper limit;
- whether any such time off should be made up at a later date;
- whether such time off can be treated as annual leave, Companies can only insist that this is taken as annual leave where the contract of employment makes a specific provision for this.
- what employees are expected to do in preparation for any days when they may not be able to come into work, this may include taking work home, ensuring deadlines are met, diverting phones and emails;
- clarity regarding the procedure for reporting any such absence and maintaining contact with the Company.

## Risk Assessments for Pregnant Employees

In the recent case of O'Neill v Buckinghamshire County Council, the obligation for an employer to conduct a risk assessment for a pregnant worker was considered. The Employment Appeal Tribunal stated that the following preconditions must be met in order for the obligation to carry out such an assessment to apply:

- (a) the employee has notified the employer in writing that she is pregnant;
- (b) the work the employee carries out is of a kind which could involve a risk of harm or danger to the health and safety of the expectant mother and/or her baby;
- (c) the risk arises from either processes, working conditions or physical, chemical or biological agents in the workplace.

Where employers fail to carry out a risk assessment and these preconditions apply then it will be considered discriminatory. It is far safer for employers to have a standard practice of always carrying out a risk assessment when they are first informed that an employee is pregnant. Where risks have been identified employers must then take relevant action to minimize the risk, they are also obliged to provide the employee with comprehensive and relevant information on the identified risks to her health and safety.

## Dress Code

In the recent case of Dansie v Metropolitan Police it was decided that where a male employee had been required to cut his shoulder-length hair that this did not amount to discrimination or harassment under the Sex Discrimination Act simply because a female employee would not, in similar circumstances, have been required to cut her hair.

However the Employment Appeal Tribunal considered whether or not the overall Dress Code was equally balanced between the sexes in that the employer's dress code as a whole was asking its employees to display an equivalent level of smartness as between the sexes.

The EAT was satisfied that the Tribunal had been entitled to find on the evidence that a female recruit who failed to comply with the dress code necessary for the service would have been treated in the same way.

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**If you would like assistance in updating your policies, would like advice on any employment issues, or would like to discuss any other HR and legal requirements please contact Vision. Vision has a range of managed legal services packages including premier insurance protection options.**

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