



This Week in Employment Law

06-06-2022

Flight cancellations cause disruption to workplaces

With cancelled flights and delays at airports preventing employees from arriving back in the UK in time for their scheduled return to work after their holidays, we look at the implications for employers.

- Whilst it is the employee's responsibility to contact their employer to explain their absence if they are going to be delayed returning from holiday, employers should take into account the individual circumstances and be reasonable in terms of expecting timely contact. Employees who don't get in touch to explain their absence can be treated as absent without leave (AWOL).
- The delay should only be a matter of a day or two but employers will still need to consider how to cover the absence. Options include agreeing more annual leave, enforcing annual leave if there is enough time to give notice (double the length of the leave you want the employee to take), taking any banked time off in lieu or a combination of these. If no other arrangement can be made, the employee will need to take unpaid leave (unless there is some rare provision in the contract providing for payment).
- For employers who are considering dismissing for the absence, this is not likely to be gross misconduct so dismissal for this sole reason if the employee has at least 2 years' service is not likely to be a reasonable response. The employee is not in control of the delays but is in control of getting in touch when they should and also getting back in work as soon as possible after they get back.
- Dismissal may be less risk if the employee is short service (under 2 years' service), but this will depend on the circumstances and employers should make sure there is no connection to a protected characteristic or any automatic unfair reasons for dismissal.

Avoiding tokenism during Pride month

With 1 June 2022 marking the beginning of Pride month, employers should avoid tokenism in their celebrations and ensure that public gestures are backed up by a genuinely inclusive workplace. Pride month can be an ideal opportunity for employers to raise awareness and highlight support for LGBTQ+ staff, as part of a wider inclusion strategy. Diversity training can play a key part in communicating an employer's stance on this.

Did you know?

Employers should review their policies and procedures to ensure there are no barriers to inclusion and that the language is fully inclusive too, such as using neutral pronouns (they/them).

Virgin Atlantic lift ban on tattoos

Virgin Atlantic are, for the first time, allowing staff to display tattoos (provided they are not offensive). The company hopes that by championing individuality it will attract more applicants in its next recruitment drive. Previously, uniformed employees had to cover their tattoos with long-sleeves, plasters or make-up. Neck and face tattoos are still expected to be covered, although this policy is currently under review.

Did you know?

Organisations may want to consider relaxing dress codes that prohibit staff from displaying tattoos, so that they can benefit from a wider talent pool of candidates.

Discrimination: menopause can be a disability

A typist at a law firm has lost her claim for disability and sex discrimination, despite the Employment Tribunal finding that her menopausal symptoms could be a disability. The tribunal found that the respondent did not have the requisite knowledge that the claimant was disabled, the reasons for her dismissal were due to the claimant's unreliability and "alarming" number of absences.

Did you know?

This case is a reminder that employers need to have knowledge of a disability for a claim to succeed, but they should be careful not to ignore symptoms as this could amount to constructive knowledge.

Whilst there is no obligation for employers to cancel pre-booked annual leave, it's beneficial to try and reach a compromise, to maintain positive employee relations. Contact our 24-hour Advisory Service for up-to-date guidance on this and more.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.