



**WORKMATTERS**  
The natural choice for human resources

# NEWSMATTERS

January 2010



## WELCOME TO THE FIRST NEWSLETTER FOR 2010

Our newsletter is issued to you quarterly to ensure that you can be kept up to date with employment issues. We will offer helpful hints on how to handle situations within the workplace, but never be afraid to give us a call for both guidance and support.

This Quarter the focus is on changes in law which may affect your business during 2010, starting initially with increases in Tribunal awards from 1st February 2010. Increase to the values of SSP, SMP, SAP and SPP in April 2010. Spring 2010 sees the introduction of "fit notes". October 2010 the Equality Bill will come into force.

Our helpful tip this month is what to do with staff who cannot get to work because of the weather, what can you do as an employer that is within the legal framework and some pointers on having to instigate a disciplinary process, following employees who have not bothered to make it in.

We think you'll find the articles very interesting. Please call us on **01442 870742** to discuss any of these articles and see how we can help you and your business more effectively in the field of Human Resources. Alternatively have a look at our website [www.workmattershr.co.uk](http://www.workmattershr.co.uk) and email us from there or on [info@workmattershr.co.uk](mailto:info@workmattershr.co.uk).

If you would prefer not to receive any future newsletters from Work Matters (HR) Ltd, please reply to this email with 'unsubscribe' in the title and we will remove you from our list - thank you.

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# CHANGES IN THE LAW

## Tribunal Awards from 1st February 2010

On the 1st February the maximum compensation that can be awarded in an unfair dismissal case will increase to £65,300. The maximum weekly pay to be taken into account when calculating statutory redundancy payments and the basic award in unfair dismissal claims will be maintained at £380, which was set in October 2009. There is no limit where the employee is dismissed unfairly or selected for redundancy for reasons connected with Health and Safety matters or whistleblowing.

## Statutory Payment for Maternity, Paternity and Adoption and Sick pay.

The above will all increase subject to Parliamentary approval in April.

SMP, SAP and SPP the flat rates will increase to £124.06 per week (or 90% of average weekly earnings if less).

The flat rate for SSP will remain at £79.15 per week, again this is subject to Parliamentary approval.

## Spring 2010

The Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) Amendment Regulations 2010 will introduce "fit notes" that will replace sick notes in England, Scotland and Wales.

## October 2010

The Provisions of the Equality Act is expected to come into force.

For further advice and support in changing your company policy on any of the above click on the link [www.workmattershr.co.uk](http://www.workmattershr.co.uk) or call **01442 870742**.

## Helpful Point

**"I AM SNOWED IN, I CAN'T GET TO WORK AND THE SCHOOL IS CLOSED YOU'LL HAVE TO MANAGE WITHOUT ME!"**

### Sound familiar?

**With many employees struggling to get to work in the snow and ice, it is worth reflecting on their rights to be paid if they simply cannot get to work through no fault of their own.**

Some employers will have "bad weather" policies which should be checked regularly and ensure that all staff are aware of it's' contents. Such policy may provide for the employee to still be paid if bad weather genuinely stops them from making it into work.

In the absence of such a policy, as an employer you have to decide whether to dock pay for non attendance or insist that this time comes off their annual leave. Employers could look at discussing other options with their employees such as making up lost hours by working additional unpaid overtime or different shift patterns.



If at all possible employees could also offer to work from home which is especially feasible providing your employees are able to log into computer systems remotely or where their work involves a lot of telephone use.

Depending on how much you value your employees you could look to see if there is a faster direct route to work which is more expensive than usual, if this were the case as the employer you could agree to meet this additional cost. But if you as the employer have got into work you may be less sympathetic towards your employees.

If school closures prevent your employee from coming to work due to child care issues?

There is no right to pay the employee in these circumstances as the situation is different from the reasonable paid time off the employee would otherwise be entitled to if they were caring for a child who is ill. The employee would be expected to make arrangements for the children in these circumstances.

Staff failing to show up for work could be due to a genuine inability to battle the conditions or a sign of limited commitment or malingering from poor performers.

# Helpful Point continued...

It's a tough time to have to try and tackle such problems but with the likelihood of further poor weather to come employers needs to nip problems in the bud and show all employees that members of staff who don't perform, fail to show proper commitment to their duties or create disruption in the workplace will be dealt with.

If you have staff you feel have used the poor weather as an excuse not to work there are some options you might take:

Theoretically, an employer may contemplate disciplinary action if they felt somebody was able to work but had chosen not to. But given this would involve complying with the minimum statutory disciplinary procedure and ensuring consistency between employees it is doubtful that many employers would want to devote time and resources to investigating the circumstances of individual workers.

However if an employee may have been taking advantage of the position and you feel that you do want to take disciplinary action.

This is a Guide to taking action against an employee in these circumstances.

**1. Recognise your emotions.** Write them down and express them. When I am under stress what I do is to sit down and reflect on the emotions that I am feeling. Ask yourself – what precisely are your feelings about this employee? When did I start feeling this? The key is not to be judgemental so that you get anger and any other feelings more crystallised. The danger is that if you do not understand fully how you are feeling you will have residual negative feelings in you which may manifest later, and may lead to an error or a mistake.

**2. Express them verbally.** Speak to a trusted colleague or Work Matters (HR) Ltd about your frustrations and get them out of your system. By doing this you can start getting a sense of perspective and seeing if the problem with the employee is really as bad as you think it is. You will start getting some objective feedback on the situation and either confirming or denying how you feel.

**3. Start considering your options.** Is the position with the employee really bad? What would be the pros and cons of taking disciplinary action? Could you consider employment mediation? Do you have to take legal action? Start considering commercial realities. Generally if you do end up in Employment Tribunal the costs will be disproportionate and should be avoided at all costs.

**4. Consider mediation.** The advantage of mediation is that it enables solutions to be reached in 80% of cases and can enable the relationship to be continued. Alternatively if the situation is hopeless a mediator may be able to broker a deal if the lawyers are involved. Mediation works in at least 80% of cases and is a cost effective way of resolving disputes.



**5. Consider Compromise Agreements as they negate the costs of having to deal with a Tribunal hearing.** If you use Compromise Agreement be very careful how you present it. Whilst the negotiations about Compromise Agreements should be without prejudice and off the record, it is possible that the employee could argue in Tribunal that these discussions are on the record, thereby showing that the employee was constructively dismissed.

**6. Be prepared.** If you are minded to take disciplinary action against an employee, then ensure that you are both legally and mentally prepared. Being legally prepared involves complying with contractual terms if you have them and ensuring that you have valid legal grounds for dismissing the employee. If performance is an issue make sure that you have prepared the ground.

**7. Consider mitigating circumstances.** If someone isn't performing, there could be genuine reasons. Do they really know what's expected of them? Managers should remember that the aim of any disciplinary process is improvement — dismissal should be a last resort.

**8. Keep the Business Informed.** If you are going to take disciplinary action against the employee, ensure that fellow management and other relevant stakeholders, like your HR team are informed. This is to ensure that they

can provide input and if there is fall-out later they will not unfairly blame you as you acted in isolation.

**9. Review the position continually.** Consistently evaluate how the negotiation is going and consider if you are moving closer or further away from settlement. If settlement looks like it is happening, all well and good. If negotiations are faltering ask yourself why and what you can do about it?

**10. Give the problem your time and full attention.** Effective communication starts with the speaker taking responsibility for understanding the language, perspective and experiences of the listener.

Effective listening means emptying your mind of all the thoughts competing for your attention, including what you are going to say in response – and giving up your ideas about what the speaker should do.

If you do this you will have a greater understanding of where the other side is coming from. When listening fully you will pick up through tone and pitch which points cause them most concern, through the words they use you will understand what the main points at issue are and by actively listening you will demonstrate to the other side that you are willing to consider their perspective. So many battles result from poor communication and it's so easy to avoid by listening properly.

**Thank you for taking the time to read our Newsletter which I hope you found informative An e-newsletter will be sent on a quarterly basis to help keep you up to date with current legislation changes, as well as giving you some helpful hints and tips to help your business run smoothly.**

In the meantime please contact us if we can be of service to you or your company.

Have an enjoyable quarter and we look forward to issuing you with our next newsletter in the early part of April 2010.

