

THE COST OF FLOODING

A Scottish Executive report found that in recent Scottish floods, householders had an average of 10 days off work to cope with the devastation caused by the weather conditions. Are employees entitled to take extra time off work if they are experiencing flood conditions? Are they entitled to be paid for that time off?

In short the answer is no, unless their contract of employment allows them to do so.

But the forward thinking employer will set out a policy to deal with such an emergency, that tells employees when they need to report their absence, who to, and how to make plans for arranging to work at home, taking

flexitime or holiday. Unless the employer gives employees a right to take time off,



paid or unpaid for only be for a short domestic reasonable time, and emergencies, the would be unpaid employee must either under the statutory use holiday or use up rights.

If the floods have unexpectedly disrupted care arrangements for an employee's dependant, the employee can take

time off to make new arrangements, although not to care for the dependent themselves. This will

have complied with their duties to provide a safe system of work and safe premises in which to work. For most employers as long they pay their employees during a closed period there is no obligation to provide work for the employees to do.

Some employers may have made contractual provision for lay off, and may be able to pay their employees reduced wages for a short period of time. This is only possible if the closure falls under the lay off provisions and the employer has reserved this right in advance. If the employer tries to lay off employees without a contractual right to do so, the employees may claim unfair dismissal.

But what if the employer's business premises are flooded? The main concern of the employer must be to ensure that if they are considering opening the business, they

FEELING THE BURN

During a summer when you are more likely to be subject to a soaking rather than a scorching it seems odd to think that as an employer you need to be mindful of the sun. It is a hazard which can be easily overlooked however if you are an employer responsible for employees who a regularly working outdoors the effects of sun burn should be as relevant to you as the risks of, say,

falling from a ladder. Exposure to Ultra Violet light can cause serious skin damage including sun burn, blistering, ageing and in the long term cancer. The effects



are well documented and skin cancer is the most common form of cancer in the UK

accounting for 40,000 new cases each year. The risks are not only recognised by the Health and Safety Executive but also the insurance industry.

So what can the responsible employer do to prevent problems?

- Include sun protection advice in routine health and safety training.
- Encourage workers to keep covered up.
- Encourage workers

to use at least factor 15 sunscreen.

- Provide site water points to prevent dehydration.
- Encourage workers to take breaks in the shade.
- Encourage workers to check their skin regularly for changes in unusual spots or moles.

By following Health and Safety advice an employer should be

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able to reduce its workforces absences arising from over exposure to UV radiation and safeguard their health.

Failing to provide an employee with the proper advice and training can lead to more than just workforce absences. An employer could face receiving claims from employees for personal injury following a breach of the employers duty of care and a breach of their statutory duty to protect the safety and well being of their employee.

The deadline for ATE market.

providing a response to the governments consultation on the claims process expired earlier this month on 13th July. The consultation document represents the most radical shake up of the personal injury claims process since the introduction of the Civil Procedure Rules. There are fears amongst practitioners that the proposals will destabilise the after the event legal expenses insurance market resulting in a steep hike in premiums or in a worse case scenario the death of the

The consultation on damages is due to end on 27th July 2007. It considers damages payable under the Fatal Accident Act and proposes to extend the categories of potential claimants under the Act. It also reviews the law in respect of private care and accommodation costs.

Finally a review of CPR Part 6 dealing with the rules relating to service of documents opened earlier this month. Responses are invited by 28th September.

Our People

Employment Law

Whether acting for a large international firm or a local sole trader, you can be assured that we offer unrivalled expertise and comprehensive services. From simple contractual advice to TUPE guidance and from preliminary contentious action to representation before the Employment Appeal Tribunal, we are proud to say that we can be there to address all your Employment needs. All the lawyers in the team are specialists in their field and full members of the Employment Lawyers Association.

Richard Cassel



Head of Employment Department. Richard specialises in all aspects of employment and discrimination law.

He is a highly regarded advocate appearing in the Employment Tribunals on a regular basis, and less frequently in the Employment Appeal Tribunal. Richard is has been a Part-Time Chairman of the Employment Tribunals since 1993 and has a considerable experience of Tribunal practice and procedure.

Contact Tel: 01603 214205

Sally Davenport



Sally joined the employment team at Hatch Brenner in 2006. Originally from Cheshire, Sally took a Modern Languages degree at Oxford University, and worked in international banking before pursuing her legal career. She worked as a commercial litigation solicitor with Theodore Goddard, one of the largest London law firms, before moving abroad with her family and developing her own

business as a legal translator. Sally is fluent in Spanish, German and French. Since returning to the UK she has completed a Masters Degree in Employment Law at the University of East Anglia with distinction. She is a Fellow of the Chartered Institute of Arbitrators and is an advisor at a local Citizens Advice Bureau.

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Jo Chimes

Jo joined Hatch Brenner in June 2002, having been admitted as a solicitor in 1989. She completed her legal training in Norwich before leaving in 1998 to read for a PhD in History at the University of Manchester. At this time Jo also worked with the peer review pilot for the Legal Services Commission, and has continued to peer review in employment law, most recently for the Carter Review on behalf of the Law Society. She is highly active within the profession as a member of the Employment Law Association and also works as a freelance trainer – designing and delivering specialist employment training. She sits on the Law Society employment law committee. Her current practice focuses on complex discrimination matters in employment.

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Civil Litigation and Personal Injury

We have a well established Civil Litigation department at Hatch Brenner which is headed by Rosemary Escott, partner. For Personal Injury cases we can offer a free initial consultation when we can advise on a range of funding options (including no win – no fee) ensuring each individual client's circumstances are taken into account. We also have specialist legal advisers dedicated to providing an efficient and comprehensive service covering a wide range of commercial disputes including arbitration/mediation/ADR, County and High Court litigation.

Rosemary Escott



Head of Civil Litigation Department. Rosemary is a Personal Injury specialist in fatal and serious injury

claims, arising out of road traffic accidents, accidents at work, clinical negligence and sexual abuse. Member of the Law Society's Specialist Personal Injury Panel since 1995.

Contact Tel: 01603 674539

Mark Fitch



Experienced in a wide range of disputes; enjoys particularly professional negligence claims, contested probate matters and claims against the police. He qualified as a mediator in 2005 becoming one of the youngest members of the Mediators in East Anglia Group.

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Colin Cook

Colin was previously a partner at a firm in Chancery Lane in London where he dealt with a wide range of personal injury claims for both Claimants and

Defendants.

He deals with all aspects of personal injury including road traffic accidents, accidents at work, criminal injuries, trips and slips. He is an Accredited Senior Litigator of the Association of Personal Injury Lawyers.

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John Cushing

John is well-placed to assess landlord and tenant claims from both perspectives, having acted for either side in a number of possession actions, rent collection matters and

damages claims. He also deals with other property-related matters including boundary and neighbour disputes, building disputes, and professional negligence claims. He is highly experienced in debt collection, and regularly appears before the district judges in the local county courts.

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