

## *This Week in Employment Law*

### ECJ Reaffirms Current Rules on Holiday Carry Over

**A recent decision by the European Court of Justice (ECJ) on a case in Finland has confirmed that the current case law approach in the UK on holiday carry over and sickness is correct. Join us as we take a look at this in more detail below:**

- The EU Working Time Directive requires all Member States to provide staff with a minimum of 4 weeks' paid holiday per leave year.
- Member states are free to offer more than this and the UK specifically requires employers to provide a minimum of 5.6 weeks per leave year.
- Previous understanding had been that staff who were unable to take their full leave entitlement throughout the year due to sickness absence were limited to carrying 4 of the 5.6 weeks over into the next leave year.
- The ECJ has reaffirmed this position by stating that national laws could only stop workers from carrying over any leave above the 4 week minimum.
- This means UK staff, who are unable to take holiday during the year due to sickness absence, aren't entitled to carry over to the following year any holiday in excess of 4 week entitlement, unless this is agreed in their contracts.

### 40% of working adults admit to 'pulling a sickie'

A joint study by Com Res and the BBC has revealed that 40% of staff would fake a bout of sickness if they needed a day off work. Meanwhile, a further 66% admitted they would not tell their boss if they knew their colleagues were absent, but not really ill.

#### **Did you know?**

Whilst employers may suspect that an employee is fabricating their sickness they must have sufficient evidence before taking any disciplinary action. Return to work interviews can help to build a picture of whether or not employees are truly ill and this prospect can deter staff from lying about a period of illness.

### Lloyds of London launch 'speak up' campaign

The insurer Lloyd's of London has launched a campaign to encourage workers to speak up against inappropriate behaviour. An advice line has been created as part of this to support staff, after 1 in 12 insurance workers had recently admitted to witnessing sexual harassment.

#### **Did you know?**

Employers have a duty to protect staff from sexual harassment and other forms of inappropriate conduct at work. In order to achieve this employers often use a combination of anti-harassment training and robust workplace policies to ensure staff feel confident in reporting instances of abuse.

### Hotel sector accused of failing on modern slavery

A study of 71 international hotel companies operating in the UK has found that only 18 have met the minimum requirements of the Modern Slavery Act 2015, including 5 who had ignored their obligation to produce a modern slavery statement.

#### **Did you know?**

Firms with an annual turnover of over £36m must produce a modern slavery statement each year, which includes details on steps taken to manage areas of the business, or its supply chains, at risk of modern slavery. The High Court may seek an injunction and ultimately fine those that refuse to comply.

For many employers 31st December will signal the end of the leave year and staff with untaken holidays may question whether they can carry these over into 2020. How you need to approach this may differ depending on whether they have been off sick, or on maternity leave, during the year and our Advisory Team are on hand 24/7 to offer expert guidance.

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