



Abell Morliss International



Employers questions on lay-offs and short-time working

The text below is from ACAS

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When can I lay off employees?.

When there is an express contractual right agreed between you and your employee, an agreement covering the issue between the company and the union, or a national agreement for the industry that you follow. Such agreements only have contractual force if they are incorporated into each affected employee's employment contract. You might also have an implied right if you can show by clear evidence that this right has been established over a long period by custom or practice

Only if you ALREADY have a clause in each employment contract giving yourself the power to do this.

It's always going to be contentious amending employment contracts to add this in. However if the employer is in a dire situation then you put it to the staff to sign amended contracts, or you close, so they have a 'choice'....

Do employees have any right to payment while laid off?

Not if there is a specific term in their contract allowing you to lay them off without pay. When they are laid off, they might be entitled to a statutory guarantee payment from you, limited to a maximum of five days in any period of three months. The daily amount is subject to an upper limit which is reviewed annually. On days when a guarantee

No

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payment isn't payable, employees might be able to claim Jobseekers Allowance and should contact their local Jobcentre office about eligibility.

How long can a lay-off last?

This will depend on the terms specified in the contract. However, your employee may in certain circumstances give you written notice of their intention to claim a redundancy payment.

The layoff clause needs to be widely drawn to give you, the employer, the greatest discretion.

This is why you put the clause in when employing the serf, as they will hardly think about it at job offer time

When can I put employees on short-time working?

You must have an express or implied power to lawfully reduce the amount of pay. Normal practice would be for the workforce or their union to agree to short-time working as an alternative to redundancies. Employees placed on short-time working might be able to claim Jobseekers Allowance for the balance of the hours they don't work. Advice on eligibility can be obtained through a local Jobcentre

Whenever you fancy as long as the lay-off clause is in there.

Usually the clause will specify some circumstances the employer can invoke e.g. loss of orders, force majeure, government emergency regulations, factory burned down....

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Can employees claim redundancy payments because of lay-offs or short-time working?

If an employee is either laid off (receives no wages) or put on short-time working (receives less than half a week's pay) for four consecutive weeks (or for six non-consecutive weeks within a 13-week period) because of a shortage of work, the employee can give written notice that he or she intends to claim a redundancy payment

Yes

ALSO.....

Comment

Rate and length of statutory lay-off pay

*Employee is entitled to **guarantee pay** during lay off or short-time working. The maximum you can get is £29 a day for 5 days in any 3-month period - so a maximum of £145*

'SSP' infests employers lives everywhere. You have to pay £145, and then it's £0

Applying for redundancy

You could apply for redundancy and claim redundancy pay if you've been laid off without pay or put on short-time and receive less than half a week's pay for:

4 or more weeks in a row

6 or more weeks in a 13-week period

So if the employee concludes there is no prospect of things getting back to normal, the layoff clause will not protect you from the usual redundancy obligations flowing from employing staff.

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Write to your employer to claim redundancy within 4 weeks of the last day of the lay-off or short-time period. Your employer has 7 days to accept your claim or give you a written counter-notice. If your employer does not give you counter-notice, you can assume they've accepted your redundancy claim.

A counter-notice means your employer expects work will soon be available - it must start within 4 weeks and must last at least 13 weeks.

Extra work or claiming benefits

You can take on another job while you're laid off or on short-time (unless your contract says you must not).

You should get your employer's agreement, make sure you're not working for a competitor, and make sure you're available for your original job once the lay-off or short-time ends

Or maybe you have treated him/her differently from his best mate doing the same job at the same firm who funnily enough has been recalled to work before you (your unending periods off sick make no difference to this decision of course)

However the employee might just get a better job whilst laid off and not reappear, it's the employers risk flowing from laying off

No I didn't write it !!

© <https://archive.acas.org.uk/index.aspx?articleid=3840>

However there is a Guarantee payment

<https://www.gov.uk/lay-offs-short-timeworking/guarantee-pay>

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