



Adverse Weather Conditions, Room Temperature and Guidance & Attendance at Work Policy

This framework for this policy has been adopted from Early Years Scotland and amended to reflect the requirements of Alford Pre-School.

This policy was adopted at a committee held on

Signed Date..... Manager

Signed Date..... Chairman

To be reviewed;

Signed Date..... Manager

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To be reviewed

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Updated: 14.02.23

Adverse weather conditions policy

Adverse Weather Conditions and Attendance at Work

When the weather makes it difficult to travel, employers and employees should consider how this could impact on the workplace. In the past we have experienced some unprecedented weather conditions affecting most parts of Scotland and Early Years Scotland receives a number of queries from member groups and staff about paying staff wages and refunding fees during periods of closure caused by the weather.

Early Years Scotland would emphasise that it is important that early education and childcare providers recognise the need to safely maintain services during adverse weather conditions (or other emergency situations), whilst properly discharging its duty of care to employees.

Paying Staff Wages

This information is based on the principle that in accordance with an employee's contract of employment they are required to attend for duty in order to receive payment unless the building where they work is closed. Where the building has been closed, for example by the landlord, and the employee is ready, willing and able to work, they are then entitled to payment of salary.

However, when travel disruptions occur, there is no legal right for staff to be paid by an employer for travel delays (unless the travel itself is constituted as working time or in some situations where the employer provides the transport). It is the responsibility of the employee to get to work. If the employee does not come to work, the employer is under no obligation to pay them.

However, Early Years Scotland recommends that employers consider the advantages of payment or arranging time off in lieu of payment, flexi or home-working alternatives to retain good levels of staff morale, engagement and commitment to the service. This is also likely to promote goodwill amongst employees if they feel that their employer is being flexible.

If employees do work from home on anything other than a one-off basis, the employer will need to bear in mind such issues as insurance, health and safety and security. Employers are responsible for the health, safety and welfare of their employees wherever they work.

Absence or lateness

If an employee does not turn up for work, or turns up late, because of adverse weather or disruptions to public transport, in the strict legal sense the employer is entitled to treat the absence in the same way as any other unauthorised absence. As a general rule in law employees must be ready and willing to perform their duties and therefore if they are absent from work without authorisation they are not entitled to be paid. In practice, this response is rare because good employers recognise that there is a degree of give and take in the employment relationship. It is more common when employees are viewed as abusing the weather circumstances.

However, if an employer does take this position they must investigate the employee's reasons for non-attendance before stopping his or her pay. If they do not they may face claims of unlawful deductions from wages or constructive dismissal. Employers should collect objective proof of the transport disruption and consider the success of other staff in getting in from the same area. They are also required to treat all employees consistently to avoid the risk of discrimination claims.

Closure of schools or care facilities and employee rights

If schools or care facilities are closed due to the weather, employees who do not have alternative childcare options may be in the position that, while they could get into work despite the weather, it is necessary for them to spend the day looking after their children.

Such circumstances will almost certainly fall within the dependant leave regime under s.57 (A) of the Employment Rights Act 1996, which includes the employee's right to take a reasonable amount of time off: because of the unexpected disruption or termination of arrangements for the care of a dependant; or to deal with an incident that occurs unexpectedly in a period during which an educational establishment is responsible for the employee's child.

Time off in these circumstances is unpaid (unless the employer chooses to pay employees or the contract provides for paid leave through, for example, a carer's leave agreement) and should last only for as long as necessary to deal with the immediate situation. If a closure is scheduled to last a week, the employer might reasonably expect the employee to make some alternative arrangements within that time to permit him or her to return to work. Employees must tell their employer as soon as reasonably practicable why they are away and how long they expect the absence to last.

It would be unlawful for the employer to dismiss or to impose some other detriment (above and beyond stopping pay if there is no agreement to paid leave), because the employee is absent on these grounds. The employee is not obliged to provide the employer with evidence that the school or care facility is closed as a prior condition to it allowing the leave (though this evidence may be available on the website of the school or local authority). If the employer suspects that the employee has procured the time off through a misrepresentation it can implement its disciplinary process, at which stage it would be appropriate to seek evidence of the closure.

If the employee is able to and does work from home, the right to time off for dependants does not come into play and the employee should still be paid.

Dependant leave absences are designed to be both short and unpaid, and the reasonableness of the length of absence depends on the individual employee's personal circumstances to a substantial extent. It may also be covered by a local agreement that limits the number of days paid leave.

Health and safety issues

Employers have a general duty under s.2 of the Health and Safety at Work etc Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare of their employees at work. Failure in this duty can result in criminal sanctions. There are also general duties on employees and there is also an implied term in every contract of employment that the employer will take reasonable steps to protect the health and safety of its workers in the workplace.

Severe weather may have a number of implications for an employer. If, for example, its employees work outside or have to drive as part of their job, they might be unable to perform their duties. Their health may also be at greater risk if they work in the open air. The employer will need to ensure that it complies with its health and safety obligations with regard to providing a safe system of work, for example by carrying out risk assessments, and ensuring that employees have suitable clothing and adequate rest breaks. A risk assessment gives employers an opportunity to identify those things in the workplace that could cause harm to their employees, or others who use or have access to the workplace, so that they can weigh up whether they have taken sufficient precautions or need to do more to prevent harm.

Employers should not encourage their employees to travel in dangerous weather, either during working hours or when travelling to and from work. While an employer would not normally be liable

for the acts of its employees when travelling to and from work, the courts have shown an increasing willingness to hold an employer liable for the acts of its employees taking place outside working hours where the act is closely connected with what the employer authorised or expected of the employee in the performance of his or her employment.

Temperature at Work

For those who get to work it is not uncommon for members to face heating failures or heating systems that are simply inadequate. Regulation 7 of the Workplace (Health, Safety and Welfare) Regulations 1992 (SI 1992/3004) states that during working hours, the temperature in all workplaces inside buildings shall be reasonable. However, the Regulations do not provide a minimum workplace temperature. Whether or not a temperature is reasonable will depend on factors such as the nature of the workplace and the type of work that is being carried out. The Health and Safety Executive provides guidance on the Regulations, which recommends a **minimum temperature of 16°C** for workplaces where the activity is mainly sedentary, such as offices. For workplaces where much of the work involves physical effort, the minimum recommended temperature is 13°C.

Temperature Control

In the event that the heating control temperature needs to be adjusted this can only be done by contacting Mike Webber, Howe Trinity Church Hall convener on 07 . The temperature can be controlled remotely by Mike Webber instantly and adjusted.

In the absence of a policy and procedures, written or established through custom and practice, reference should be made to the Directgov and ACAS websites below. The websites provide guidance to employers and employees about travel disruption and rights at work. Early Years Scotland recommends that service providers read and consider the guidance provided in relation to the circumstances in their service and reach decisions that are consistent with good practice and uphold the rights of employees.

Directgov: [www.direct.gov.uk/en/Employment/Employees/Timeoffandholidays/ DG_184199](http://www.direct.gov.uk/en/Employment/Employees/Timeoffandholidays/DG_184199)

ACAS: www.acas.org.uk ACAS also has a telephone helpline than can be used 08457 474 747

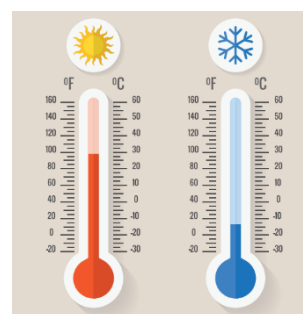
Room Temperature Guidance

The Health and Safety Executive provides guidance on the Regulations, which recommends a **minimum temperature of 16°C**

Temperature Control

In the event that the heating control temperature needs to be adjusted this can only be done so by contacting Mike Webber, Howe Trinity Church Hall convener on 07 .

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Plan Ahead

Consider reviewing your group's policy and thinking about how you handle future scenarios. It would be best to put an 'adverse weather' or 'journey into work' policy into place that deals with the steps employees are required to take to try to get into work on time and how the group will continue if they cannot. You need to decide how to deal with lateness and what will happen with regard to pay. Having such a policy should mean there is much less scope for confusion and disagreement.

Refunding fees because of non provision of a service

Early Years Scotland is very aware that many member groups are reliant on fees as their main source of income to balance the books in the management of the service and understands the constraints on the budget to provide refunds to parents (or to cancel the payment of fees), if the service has been suspended because of the adverse weather, or other circumstances out with their control.

It is recognised that it is good policy to have sufficient reserves for contingencies otherwise a service will struggle to pay staff wages and other regular expenditure such as rent, if it does not receive the expected regular income derived from fees. Therefore, management committees should review their group's financial position and reserves before making a decision to give refunds (or to cancel fee payments) if their service has not operated during this period of adverse weather conditions. Due consideration must be given to whether a service can afford refunds (full or partial) to all parents without jeopardising the operation of the service and undermining the good practice principles and advantages of paying staff, if the service has been suspended.

Whatever the decision, good practice would be to inform parents by giving an explanation of how the decision was reached. To avoid a re-occurrence of the situation Early Years Scotland recommends that services revisit their fee management guidance (Early Years Scotland has fee management guidelines on their website in the FAQ section) and parent's information / welcome package and insert a statement clearly setting out the service's position on giving refunds on fees (or canceling fee payments).