

Review

Employment



Employment issues kick off in the World Cup

The 2010 World Cup taking place in South Africa from 11 June will delight football fans but may prove to be a headache for employers.

Many employees are likely to request time off work to watch matches and others may claim they are “unwell” whilst in reality they are watching matches (or recovering from watching matches).

The challenge for employers during the World Cup season will be dealing with these issues in a way that does not disrupt or adversely affect their businesses, whilst at the same time seeking to avoid damaging workplace morale. Being prepared and having a strategy for dealing with issues such as unauthorised absence will be key to avoiding any problems which might arise. Clearly, employers can never prevent employees from taking unauthorised time off altogether but measures can be put in place to discourage them from doing so.

Communication and clarity will also be very important. Once a strategy has been decided for the World Cup period, it is important to communicate this to employees so that (if appropriate) they can make arrangements and ask for time off work in advance.

REQUESTS FOR TIME OFF WORK

Employers are likely to be faced with requests from employees asking for time off during the working day to watch football matches. Whilst this may not be popular with employers, it is preferable to plan in advance for such requests (so as to ensure a consistent approach) than have disgruntled employees taking the time off anyway, telephoning in sick or watching matches when they are supposed to be working.

The strict legal position is that any additional time off work (in addition to holiday entitlement and rest breaks, etc) requested by employees is at the employer’s discretion, which must not be exercised perversely or irrationally.

Hammonds client Tesco has operated a ‘shift swap’ scheme for over five years and will be reminding its employees that they can take advantage of it as part of their World Cup planning. As well as tackling some of the practical issues which arise during the World Cup, such schemes may generate considerable goodwill amongst employees. Suggestions for employers for a strategy for handling requests for time off include:

- allowing employees to take the relevant days (or half days) off as part of their annual leave entitlement. Practical concerns may affect this. For example, if most or all of the employees in one department or part of a business wish to utilise this option to watch the same match, it is likely to be impracticable or undesirable for them all to be away at the same time. In such circumstances, employers will have to exercise their discretion objectively as to who is able to take leave (for example, on a first come, first served basis);
- allowing employees who wish to, to take unpaid leave during the World Cup. As with annual leave (see above) the discretion must be exercised fairly. Employers should bear in mind that if this option is chosen, they may face requests in the future from employees who wish to take such leave to watch other major sporting events such as Wimbledon or the 2012 Olympics. Making the time unpaid may test an employee’s loyalty to his team but equally can

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look pretty petty – the game itself is most unlikely to go beyond two hours, hardly distinguishable from serious commuting delays or a long lunch;

- allowing employees to listen to matches on the radio or watch them on television at work. This may not be appropriate for all businesses and thought will have to be given as to avoiding disruption to employees who are not football fans (especially if the radio or television is in a public place and not in a separate room) and avoiding disruption in the office (for example, if people are making telephone calls). Employers might wish to reserve a discretion to remove or switch off the radio/television if there is disruption to colleagues or clients, though if that were a possible outcome it would probably be best to say so in the first place, since the ill will generated by switching off part-way through a game can easily be imagined;
- operating (where possible) a flexible working system on days when there are key matches. For example, allowing employees to take a longer rest break or to arrive at work later than usual/leave work earlier and to make the time up at another time. On a practical note, this will need to be co-ordinated in advance so that there is adequate cover, as appropriate, and it may be necessary to reserve the right to withdraw permission if later urgent client or business needs require it.

Employers who decide to adopt one or more of the strategies above would be advised to make it clear in any communication to employees that these measures are discretionary and do not set a precedent for the next World Cup, or for other major events in the meantime. It would also be helpful to make it clear that any abuse of these measures may result in their being withdrawn, or in disciplinary action. Setting out any particular rules (for example, that no alcohol is to be consumed in the workplace during matches) will also be important (although potentially also futile!).

UNAUTHORISED ABSENCE AND ABUSE OF SICKNESS POLICY

Employers will be concerned that even if they implement strategies such as those set out above, some employees are likely to abuse the system by simply not turning up or by taking advantage of the employer's sickness policy.

The legal position is that any unauthorised absence should be dealt with by the employer in the normal way, which is usually under the disciplinary policy. Similarly, any abuse of the sickness policy which can be proved is usually a serious disciplinary matter.

In order to pre-empt any such abuse or unauthorised absences, employers could consider flagging up the consequences of misuse and abuse in advance of the World Cup. This could be done by sending an email or other communication to all employees setting out the company's policy for the World Cup.

This is an opportunity for employers to earn some credit with their employees by being seen to be generous and flexible with arrangements for the World Cup season, whilst at the same time making it clear what is expected of employees in return. For example, employers could:

- explain to employees that if they take time off which has not been authorised in advance in accordance with the company's World Cup arrangements, that this is likely to result in disciplinary action being taken. Hopefully, this should act as a deterrent; and
- require any employees who take sick leave during the World Cup month (particularly on the day of or after England games) to provide medical evidence of their sickness absence, such as a doctor's certificate.

OTHER ISSUES FOR EMPLOYERS TO BEAR IN MIND

- Potential discrimination issues. Not all football fans are male, but this is a common assumption made by many employers. Employers should also be careful to remember that they may have employees of other nationalities whose national teams might be taking part, and granting consent to watch only England games could therefore be dangerous.
- Inappropriate/excessive Internet use if employees are watching matches online when they are supposed to be working. A timely re-circulation of the company IT/internet usage policy may help in this respect.

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- Potential criminal issues if employees get involved in football hooliganism or violence connected with excessive drinking during the World Cup.
- If inviting clients to watch a match on the employer's premises, the employer should bear in mind its obligations under the Health and Safety at Work etc Act 1974 and under the Occupiers' Liability legislation. This means ensuring that the venue does not present any health and safety risks, and ensuring that employees and guests do not put themselves or others at risk either at or after the event, for example by consuming too much alcohol or entering any dangerous parts of the premises. Employers should also check that their insurance policies cover the event. It would also be wise to remind employees in writing in advance of their proper conduct towards guests.

KEY DATES AND TIMES

The key dates and times of England matches for employers to be aware of are:

- **Saturday, 12 June 2010** at 20:30 against the USA;
- **Friday, 18 June 2010** at 20:30 against Algeria; and
- **Wednesday, 23 June 2010** at 16:00 against Slovenia.

If England finishes either **first or second in their group**, they will play again on either Saturday, 26 June 2010 at 20:30 or Sunday, 27 June 2010 at 16:00 respectively.

If England reach the **quarter-finals**, they will play on either Friday, 2 July 2010 at 20:30 or Saturday, 3 July 2010 at 16:00.

If England reach the **semi-finals**, they will play on either Tuesday, 6 July 2010 at 20:30 or Wednesday, 7 July 2010 at 20:30.

The **final** of the World Cup takes place on Sunday, 11 July 2010 at 20:30, not that this will probably be of any continuing interest to England supporters.

Note that the above times are local so, due to the time difference with South Africa, match start times in the UK will be **one hour earlier**.

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