

Employment

June 2009

Hello and welcome to the D&W Vox, our podcast keeping you up to date with what's new in employment law.

In this D&W Vox, prepared by our employment team, we take a look at:

- **Fit notes to replace sick notes**
- **BA chief works for nothing**
- **Manager has to pay full award of compensation for harassment**
- **Paternity plans put on hold**

And first, the Government aims to get people who are on sick leave but fit to do *some* work, back in the workplace in a bid to reduce the 172 million working days lost annually to sickness absence. It has launched a consultation on the introduction of 'fit-notes' which would replace traditional 'sick notes'. The consultation closes in August of this year. The scheme, which the government plans to implement in Spring 2010, will see a change in focus from what the employee cannot do to what he can do. A doctor may be able to declare a patient as fit for 'some' work, meaning the employer could facilitate an employee's return to work by adapting what is required of him. However there will be no duty on the employer to implement the doctor's suggestions. The scheme will also impact on those at the other end of the scale- those who are working when not at full health and aggravating an existing illness may have their workload or working hours reduced following doctor's orders.

[BA chief docks his own pay](#)

With pay freezes and reduced hours a reality for millions this year, workers at BA will be pleased to know that even their Chief Executive is not immune. Following record losses by BA over the past year, Willie Walsh has announced he will forgo July's allocation of his £735,000 salary. He is quoted as saying this is to 'make a contribution in recognition of the extremely challenging position'. The company has already cut more than 2,500 jobs since last summer. It is believed that all BA staff will face a pay freeze and management will not be receiving bonuses. Mr Walsh's approach is in line with the Combined Code on corporate governance which urges companies to be sensitive to pay and employment conditions elsewhere in the group when considering annual salary increases for executives.

[Manager ordered to pay the full compensation in a disability harassment case](#)

Perhaps more managers would take harassment more seriously if they had to pay the full cost of a tribunal claim. In a recent case, despite a tribunal confirming that the facts were proven, the employer avoided liability on a legal technicality.

In this case a claimant who appealed against his dismissal for speeding at work, was unable to proceed with his disability harassment claim against his employers because he didn't realise that he should have raised a separate grievance about the disability issues. However he was successful in his harassment claim against his manager who was held personally liable for his own role in behaving badly towards the employee, in addition to his failure to prevent co-workers from engaging in similar behaviour.

It is commonplace for employees to sue both the harasser and the company. Normally an employer is vicariously liable for the actions of its employees, unless they can demonstrate that they took reasonable steps to avoid the discrimination or harassment. Fortunately for the employee in this case his complaint against his line manager was still competent, although his claim against his employer was not, meaning the line manager was liable to pay the full compensatory award.

Paternity plans put on hold

Government plans to bring in six month's paid paternity leave for new fathers have been put on hold. The plans would have allowed new parents to effectively share maternity leave, meaning that mothers could return to work when their child reaches six months of age.

Currently fathers are only entitled to two weeks' paternity leave, but in view of the growing interest by fathers in taking a role in the first year of a child's life the legislation would give parents choices on how they wanted to care for their children.

And that's all for this months Vox.

This Podcast Transcript is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

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