What to do with your workers in a heatwave?

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The 40-degree heatwave may be over for now, but as global warming causes temperatures to rise, meteorologists predict warmer temperatures will be a regular event in the UK. What does this mean for the workplace?

What is the law currently on temperature at work?

At the moment, employers must make sure indoor workplaces remain at a reasonable temperature and manage the risk of working outdoors in hot environments, for the "thermal comfort" (whether someone feels too hot or cold) of its employees. However, there is currently no maximum temperature beyond which it is not legal for workers to work in.

What is a "reasonable" temperature will vary depending on the nature of the individual workplace. For example, some outdoor workers may need to have their working hours varied so that they can work in cooler temperatures, and office staff may need to work from home or have the air conditioning regularly checked.

What should employers do?

If employees have to come into work, then you should think about what common sense alterations you could do to make the environment more comfortable for them. For example:

- using fans;
- regulating the air conditioning;
- closing blinds/curtains if possible;
- providing access to cold water;
- relaxing any dress code;
- changing working hours; and/or
- allowing flexibility in travelling.

Indeed, if there are potential health and safety risks at the

workplace or in travelling to the workplace then working from home should be considered although for many staff it may be overall more comfortable to work in an air-conditioned workplace than to work from home.

Legal issues for employers

Some of these alterations could potentially be viewed as a reasonable adjustment for a disabled employee. A failure to make a reasonable adjustment will be discriminatory.

Employers should also be keeping an eye on workers who are more susceptible to heat stress, such as pregnant and menopausal workers. As above, it could be discriminatory if alterations are not made to how they work during a heatwave.

It is also important for employers to note that if the temperature presents a health and safety risk, then, in certain circumstances, an employee may be entitled to stay away from (or leave) the workplace.

Employers are under a duty to make a suitable assessment of risks to the health and safety of their employees. It would be wise to review any assessment before a heatwave to ensure you are equipped in such circumstances. This should assist in helping to mitigate any potential legal claim.

Is there going to be a change in the law in the future?

A number of MPs have recently backed a call for a maximum workplace temperature via an early day motion, and the GMB union and the TUC have also called for a maximum workplace temperature to be set to protect the health and safety of workers in heatwaves.

Despite this, there does not appear to be an appetite from the Health and Safety Executive to regulate this more formally. They say there is no maximum temperature because workplaces with hot processes (such as bakeries, glass works or

foundries) would not be able to comply with such requirements.

As temperatures are only set to rise in the coming years, it looks like this is going to become a hot topic, with the possibility of stricter regulation in future.

BDBF is a law firm based at Bank in the City of London specialising in employment law. If you would like to discuss any issues relating to the content of this article, please contact Associate Hannah Lynn, Principal Knowledge Lawyer Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.

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