

What an SGB can do if an employee is absent without notice?

If an employee has a holiday request rejected, they might be tempted just to take the time off anyway. Most SGBs will have a comprehensive sickness and absence policy detailing what an employee is required to do if they are not going to be at work on a particular day. Absence without leave, or "AWOL" is when someone does not come to work and does not give a reason for their absence or contact their employer about it. For many SGBs, failure to give reasons for absence will be considered misconduct.

In the first instance, an SGB should reach out to an AWOL employee to see if there is a reasonable explanation for their absence. It is advisable to make note of attempted contact, in case it isn't possible to speak to the employee and the matter becomes a disciplinary issue. If it isn't possible to contact the employee or they don't have a reasonable explanation for their absence, the SGB could commence a disciplinary process. Whilst dependent on the individual circumstances, it's important to note that an AWOL employee will rarely be taken to have resigned through their actions.

A more drastic situation is if an employee decides to terminate their employment, and potentially at short notice if their absence is as a result of an impending holiday. If an employee leaves employment and does not give the notice required under their contract of employment, they will be in breach of contract.

An employee who chooses this course of action is, of course, not entitled to notice pay that they would otherwise be entitled to. An employer is only liable to pay the employee for the time they have worked, and, ironically, any accrued but untaken holiday. It would also be open to the SGB to raise a claim against the employee for breach of contract if their absence has had a knock on effect to the SGB's operations, however this is a course of action that is rarely pursued.

Despite the potential upset caused by an AWOL or potentially departed employee, it is important for SGBs to explore the potential reason for an absence. An employee usually requires one year and 51 weeks' service to bring a claim for unfair dismissal, but there is no such qualifying period in cases of discrimination. Therefore, SGBs should be mindful of any circumstances which might apply to the employee which make their attendance at work difficult or impossible, and whether there might be anything they can do to alleviate those issues.

Get in touch

SGBs can access the **sportscotland** legal expert resource helpline by email at sportscotlandinfo@harpermaclLeod.co.uk or by calling 0141 227 9333.