



WATSON ESAM Solicitors

**PRESS  
RELEASE**

## **EMPLOYEES TO BE ENTITLED TO HOLIDAY PAY DURING SICKNESS?**

The latest opinion from the European Court of Justice (ECJ) on 20 January is likely to mean that workers are to be entitled to accrue holidays when they are off work due to sickness. If the House of Lords agrees and passes judgment – which it is likely to – the ruling to the contrary made only 4 years ago will be completely overturned.

Insisting that under the EU Working Time Directive, employees have a right to a minimum amount of paid annual leave, the court said “a worker does not lose his right to paid annual leave which he has been unable to exercise because of sickness. He must be compensated for his annual leave not taken.” This means that an employee who is on sick leave at the end of the working year must be able to carry over into the next year any holiday that he has been unable to take. It also means that employees who are sacked or leave work whilst they are off sick are entitled to pay equal to any holiday they could not take as leave during that time. The ECJ has left it to member states to decide if an employee can take holiday during a period of sick leave.

Clearly in the current uncertain economic climate this is disturbing news for businesses who may now incur substantial unexpected expenses and potential long periods of time with staff away from the work place. The CBI described the ruling as “a real blow to firms trying to keep jobs alive during the recession”.

Employment specialists at city centre solicitors Watson Esam can offer a cost effective review of employment policies and advice on all issues relating to sickness and holiday leave. Contact Jay Bhayani on 0114 275 3350 or [jay.bhayani@watson-esam.co.uk](mailto:jay.bhayani@watson-esam.co.uk). [www.watson-esam.co.uk](http://www.watson-esam.co.uk)

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**Further information:**

Watson Esam is one of the oldest established legal firms in Sheffield practising from its offices in Paradise Square. A medium sized firm with approximately 40 staff, it is well known for delivering first class services to businesses in South Yorkshire. Jay Bhayani is senior partner and head of the firm's employment department. She is a former winner of Yorkshire Lawyer

Employment Lawyer award (2005) and was short listed for the Yorkshire and Humberside Institute of Directors Adviser of the Year Award 2007. She specialises exclusively in contentious and non contentious employment law. She has dealt with high profile and complex cases acting primarily for employers. Jay is recognised as one of the leading employment law specialists in Yorkshire and is named in the Legal 500 as such.

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