

## Issue 94: European Court of Justice ruling says that leave accrues during long-term absence

### **Now more than ever, companies need to manage the impact of ill health**

**In another blow to companies that are trying hard to stay afloat during the recession, the European Court of Justice (ECJ) has ruled that annual leave accrues while employees are absent on long-term sickness absence.**

Potentially for UK employers, this means that when an employee who has been on long-term sick leave returns to work, he or she must be credited with the annual leave not taken during their absence from work. Similarly, if an employee is dismissed or retires early through ill health, leave accrued during their period of extended absence must be paid out.

The ruling is based on the European Working Time Directive, which the UK signed up to in 1998. This required workers to have a "right to a minimum period of paid annual leave". The ruling advises "A worker does not lose his right to be paid annual leave which he has been unable to exercise because of sickness. He must be compensated for his annual leave not taken."

The ECJ decision could be a significant blow to employers who have seen their margins cut in the current financial turmoil.

As a consequence, we expect to see many employers reconsidering their sick leave arrangements in the light of their increased obligations. But this is not necessarily the right approach.

Short-term sickness absence and all the other manifestations of ill health are some of the most significant costs and risks faced by an employer. Hewitt has determined that the annual total cost of health for a typical employer lies between £2,000 and £3,000 per employee. Yet many companies fail to recognise this and pay little or no heed to these 'sunken' costs.

Evaluating the total cost of health gives a company the management tool it needs to ensure that the impact of ill health on the organisation is minimised. The Hewitt Total Health Management approach provides a framework within which significant savings can be made. As the savings for companies from managing ill health are likely to be many multiples of the cost of offering leave pay to long-term absentees, the company that follows this approach will be able to maintain their long-term absence policy without concern.

***If you would like to know more about our Total Health Management approach, please contact your usual Hewitt consultant or [James Kenrick](#) on 01372 733125.***

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