

When jury service calls

Jury duty underpins British justice but can prove difficult for employers if key workers are absent at a critical time, writes *Andrew Don*

Alison, a senior member of staff, is summoned for jury service. “No problem,” you might say, if other staff can pick up her duties.

But the consequences can be severe if you own a small agency with a few employees.

Alison is legally required to report for jury service, otherwise she can be fined up to £1,000.

Should you refuse to let Alison serve, you cannot take disciplinary action against her for disobeying you, otherwise she can take you to tribunal.

You have the right to ask Alison to apply for a deferral, in which case she must. You should provide a supporting letter, setting out the business-critical reasons. You have grounds to invoke the disciplinary procedure if Alison refuses to request a deferral when you have asked her.

When requesting deferral, Alison must say when she is available in the following 12 months. She may or may not be recalled. Other reasons for deferral might be that she has a holiday or operation booked. Perhaps a fam trip has been arranged that cannot be changed.

Alison can also request “excusal”, rather than deferral, from jury service when it would be unreasonable for her to serve at any time within the following 12 months.

If you are the one called to serve, you might apply for excusal yourself if the business cannot run without you, but you must be able to convince the summoning officer.

Whatever the reasons for deferral or excusal, Her Majesty’s Courts & Tribunal Service says summoning officers must consider them “carefully, sympathetically and with regard to the individual circumstances of the applicant”.



Jacob Demeza-Wilkinson, employment law consultant at ELAS Business Support, says: “If a sole trader, you could technically keep deferring if you can show you’ve got a valid reason [but] you might find with employees it’s not as straightforward.”

Claims for lost earnings

Jury service usually lasts up to 10 working days, but it can be a lot longer. Once Alison informs you she has been summoned, ensure you get

out a Certificate of Loss of Earnings for Alison. She will need that as part of her claim from the court for loss of earnings and other expenses including travel and lunch - a maximum of £64.95 per day is allowed for the first 10 days.

Demeza-Wilkinson says: “[As the employer], you don’t have a legal duty to pay them, but sometimes employees will moan a great deal if it’s not in the contract or handbook.”

This might especially be the case if Alison has moved from a larger company that paid staff when on jury service, he says.

Bryn Doyle, labour & employment partner at Squire Patton Boggs, who has extensive experience advising travel companies, says if Alison only tells you at the last moment she is going on jury service, you could, theoretically, discipline her, but he does not think that is sufficient to dismiss her.

Alison could ask you to request a deferral the next morning, he says.

Demeza-Wilkinson says you should always have “what-if” safeguards in place, such as what if someone is off sick, has to take maternity leave, or needs time off to care for ailing children or elderly parents.

“If possible, have more than one person in the business who can pick up their work, or there might be the option to have some form of pool of bank staff to cover.”

Like it or lump it, unless you can argue “exceptional” circumstances, Alison will have to do her duty.



a copy of the official letter - she might be pulling a fast one to get time off. Once you have proof, you must fill