



Some assembly required to follow IKEA's sick pay cut for unjabbed staff

International Employment Lawyer

It has been reported that IKEA has cut sick pay for unvaccinated UK staff required to self-isolate following exposure to the virus.

"Fully vaccinated co-workers or those that are unvaccinated owing to mitigating circumstances which, for example, could include pregnancy or other medical grounds, will receive full pay," the Swedish retailer said in a statement.

"Unvaccinated co-workers without mitigating circumstances that test positive with covid will be paid full company sick pay in line with our company absence policy. Unvaccinated co-workers without mitigating circumstances who have been identified as close contacts of a positive case will be paid statutory sick pay."

Any employer looking to differentiate between employees for sick pay purposes for any reason needs to consider whether that reason could be discriminatory, said Raoul Parekh, a partner at GQ|Littler.

"Covid-19 vaccination status isn't a protected category, like age or race, but there's still a possibility that a move like this could be indirectly discriminatory. For example, vaccination rates are generally lower in pregnant women than the population as a whole, likely due to initial uncertainty about vaccine safety for this group."

However, Parekh said this risk can be addressed by ensuring employees' specific circumstances are taken into account. "It's been clear from the reporting of IKEA's policy change that they are doing this, with 'mitigating circumstances' being considered before any deduction."

Parekh added: "Employers have rightly been cautious about gathering this data, since doing so requires a solid justification under GDPR. However, just as governments have moved to using vaccination status as a factor for deciding whether people can attend mass events or work in care homes or even introducing vaccine mandates, so employers have become more comfortable with this."

“With a properly thought through justification, it’s likely employers can find a lawful basis for this use too, but they will need to ensure it is properly documented and communicated to employees.”