

Time off for Dependants

This newsletter sets out how a business should respond when one of its employees requests time off work to deal with a situation affecting a dependant.

When can an employee request time off?

Employees are entitled to take a reasonable amount of unpaid time off work when it is necessary to deal with certain **unexpected or sudden events** affecting a dependant. This right is available to all employees, irrespective of:

- ❖ their length of service;
- ❖ whether they work full-time or part-time; or
- ❖ whether they are employed on a permanent, temporary or fixed-term basis.

Employees have the right to take a **reasonable amount of time off** in the following situations:

- ❖ to provide assistance if a dependant falls ill, gives birth, is injured or assaulted. An illness or injury does not have to be serious or life threatening to be covered;
- ❖ to make care arrangements for the provision of care for a dependant who is ill or injured (for example, taking a sick child to stay with relatives);
- ❖ if a dependant dies. In these circumstances, unpaid time off is intended to enable an employee to deal with practical matters required as a result of a death (for example, arranging and attending a funeral). This should not be confused with compassionate leave, which the business may deal with separately;
- ❖ to deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependant (for example, to make alternative arrangements if a child's nanny is ill); or
- ❖ to deal with an unexpected incident involving a child during school hours.

Businesses can also decide to allow employees unpaid time off in situations **other than those listed above** (for example, if their central heating system breaks down).

Who is a dependant?

- A spouse, civil partner, child or parent (but not grandparent) of the employee.
- A person who lives in the **same household** as the employee (excluding tenants, lodgers and boarders).

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The information in this newsletter is not meant as a substitute for advice on particular issues and is written in general terms. You should seek specific advice before taking any action based on the information in this newsletter.

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This article outlines the law as it stands at the date of writing in November 2014.

- Anyone who **reasonably relies** on the employee:
 - ❖ to make arrangements for care to be provided if their existing arrangements are unexpectedly disrupted or terminated;
 - ❖ because they have fallen ill, given birth, been injured or assaulted; or
 - ❖ to make arrangements for care to be provided because they are ill or injured.

What is a “reasonable” amount of time off?

This will always depend on the nature of the incident and the employee’s **individual circumstances**. However, in the vast majority of cases, it is unlikely that an employee should reasonably require more than a few hours or, at most, one or possibly two days to deal with an incident affecting a dependant.

Unpaid time off for dependants is intended to be a **short-term solution** to deal with an immediate crisis. The business should discuss alternative arrangements with the employee (for example, taking annual leave or temporary flexible working arrangements), if the situation affecting their dependant is likely to require more time to resolve.

What obligations do employees have?

Unless it is impossible for them to do so until they return to work, employees will only be entitled to take time off to care for a dependant if they inform the business:

- ❖ **As soon as possible** of the reason for their absence.
- ❖ **How long** they expect to be away from work.

Penalties?

If an employment tribunal finds that an employee has been refused permission to take time off, or was subjected to a detriment for taking it (or seeking to take it), the tribunal can award compensation to the employee.

If the tribunal decides that the employee has been unfairly dismissed for taking time off to look after a dependant, it can order the business to:

- ❖ **re-employ** the dismissed employee on new terms with no loss of continuity of employment (re-engagement);
- ❖ **re-employ** the dismissed employee on the same terms of employment with no loss of continuity of employment (reinstatement); or
- ❖ pay **compensation**.

What practical steps can a business take?

- Implement a **clearly worded policy** setting out the circumstances in which employees can take time off to care for their dependants and any evidence the business may require.
- Set out the **notification procedures** that employees must follow in the policy.
- Stipulate the **penalties** for abusing the right and for failing to follow the notification procedures in the policy.
- Explicitly state in your **disciplinary procedure** that abuse or breach of the policy will result in disciplinary proceedings being instigated.
- **Publicise the policy** so that employees cannot claim they were unaware of their obligations.
- **Signpost other rights** that employees may have which may be more appropriate (for example, parental leave).

