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Time off for dependants

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



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Time off for dependants

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

When can an employee request time off?

Your employees only have a 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. In the case of assault, the dependant does not need to have been physically hurt; it is enough if they are distressed and need comforting or assistance.
- 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 your 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).
- To deal with an unexpected incident involving a child during school hours.

Your business 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).

More information

If you have any queries about the content of this guide, please contact

John Norrie (0131 221 6671) or **Gordon Innes** (0131 240 0773) in our Employment Team.

Who is a dependant?

- A spouse, civil partner, child or parent (but not grandparent) of your employee.
- A person who lives in the same household as your employee (excluding tenants, lodgers, boarders and employees).
- Anyone who reasonably relies on your 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. You should discuss alternative arrangements with your 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 your employees have?

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

- 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), it can award compensation to the employee.
- If the tribunal decides that your employee has been unfairly dismissed, it can order your 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.

Practical steps for your business

- Implement a clearly worded policy setting out the circumstances in which your employees can take time off to care for their dependants and any evidence your business may require.
- Set out the notification procedures your 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 your employees may have, which may be more appropriate (for example, parental leave).
- Ensure that the policy is enforced consistently throughout your business.



John Norrie



Gordon Innes