

TIME OFF FOR DEPENDANTS QUESTIONS AND ANSWERS



Under what circumstances can an employee take time off?

This right enables employees to deal with an unexpected or sudden problem and make any necessary longer term arrangements:

- If a dependant falls ill or has been involved in an accident or assaulted, including where the victim is hurt or distressed rather than injured physically
- when a partner is having a baby
- to make longer term care arrangements for a dependant who is ill or injured
- to deal with the death of a dependant; for example, to make funeral arrangements or to attend a funeral
- to deal with an unexpected disruption or breakdown in care arrangements for a dependant; for example, when the childminder or nurse fails to turn up
- to deal with an incident involving the employee's child during school hours; for example, if the child has been involved in a fight or is being suspended from school

Who counts as a dependant?

A dependant is the partner, child or parent of the employee or someone who lives with the employee as part of their family. For example, this could be an elderly aunt or grandparent who lives in the household. It does not include tenants or boarders living in the family home or someone who lives in the household as an employee, for example, a live-in housekeeper.

In cases of illness, injury or where care arrangements break down; a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only person who can help in an emergency.

How much time off must be allowed?

There is not a set limit to the amount of time off which can be taken. In most cases, the amount of leave will be one or two days at the most but this will depend on individual circumstances although an employee may be able to take a longer period of leave under other arrangements with the employer. For example, if a child falls ill, the leave should be enough to help the employee cope with the crisis – to deal with the immediate care of the child, visiting the doctor if necessary and to make longer term care arrangements. It does not mean that the employee may take two weeks leave to look after a sick child.

Must time off be with pay?

The right does not include a statutory right to pay, so whether or not the employee will be paid is left to the employer's discretion or to the contract of employment between them.

How much notice do employees need to give to their employers?

Employees need to tell their employers as soon as possible about their absence, the reason for it and how long they expect to be away from work. There may be times when an employee returns to work before it was possible to contact his or her employer but he or she should still tell his or her employer the reason for the absence on return to work.

What if an employer unreasonably refuses time off?

Employees who think that they have been unreasonably refused time off or victimised for taking it, may make a complaint to an Employment Tribunal against their employer. Complaints must normally be made within three months of the date when the time off was refused or the victimisation took place. The Tribunal may require the employer to pay the employee compensation if it finds in his or her favour.

What happens if the employee needs longer time off or knows in advance that the problem is going to arise?

If employees know in advance that they are going to need time off, they may be able to arrange with their employer to take this time as part of their annual leave entitlement or if the reason they need leave relates to their child, they may be entitled to take parental leave.

The case of *Royal Bank of Scotland Plc vs Harrison EAT/0093/08*, gives detailed information on the length of time you are required to know in advance that a problem is going to arise.

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