

Summary

- Under the Employment Rights Act 1996, all employees (regardless of their length of service and whether they work full-time or part-time, or are employed on a permanent, temporary or fixed-term basis) have the right to take a 'reasonable' amount of time off work without notice to deal with particular situations affecting their dependants.
- The right to time off is intended to be for emergencies only, and the time taken off is unpaid.
- There is no specified limit on the length of a period of time off for dependants - but it must be reasonable.
- An employee can make a complaint to the employment tribunal that s/he has been unfairly refused time off to care for dependants.
- Dismissing an employee for taking time off for dependants will be automatically unfair.

When is the employee entitled to the right to time off?

An employee is entitled to take reasonable time off where it is necessary:

- To provide assistance if a dependant falls ill, gives birth, is injured or assaulted.
- To make care arrangements for the provision of care for a dependant who is ill or injured.
- In consequence of the death of a dependant.
- To deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependant
- To deal with an unexpected incident involving the employee's child during school hours.

Other events, such as the central heating system breaking down or needing to take the family pet to the vet, are not covered and remain a matter to be dealt with under ad hoc arrangements between you and the employee.

Remember also that the statutory right is intended to apply to unexpected events and does not apply to planned time off; for example, to take a dependant to a pre-arranged medical appointment.

What is reasonable time off?

Employees are only entitled to take a "reasonable" amount of time off. What is a reasonable will depend on the nature of the incident and your employee's individual circumstances but the statutory right is not intended to enable employees to take more time off than is necessary to deal with the immediate crisis. In many cases, no

more than a few hours or, at most, one or possibly two days would be regarded as reasonable to deal with the particular problem which has arisen.

The disruption or inconvenience caused to your business should not be taken into account.

Who is classed a dependant?

A dependant is a spouse, civil partner, child or parent (but not grandparent) of the employee, or someone living in the employee's household as a member of their family. It also includes someone who reasonably relies on the employee for assistance (for instance, an elderly neighbour).

Does the employee have to give you notice before they take time off?

Given the nature of the right, the employee does not need to give you written notice but they should tell you, as soon as possible, the reason for their absence, and how long they expect to be away from work.

Your employee is not required to produce any evidence of their need to take time off.

Is there a limit on the number of times an employee can take time off?

Given the nature of the right, there is no limit on the number of times an employee can exercise the right to time off.

What if you suspect that the employee is abusing the right to time off?

If you have reasonable grounds to suspect that your employee has abused, or is seeking to abuse the right, you should deal with the matter under your disciplinary procedure as misconduct.

Employment tribunal

An employee who is refused permission to take time off in accordance with the right or who suffers some detriment for taking it (or seeking to take it) can complain to an employment tribunal which can award such compensation as it considers just and equitable having regard in particular to the loss suffered by the employee.

Furthermore an employee who is dismissed because they took or sought to take time off in accordance with their right will be able to claim unfair dismissal, regardless of their length of service. If a tribunal decides that an

employee has been unfairly dismissed it may order you to take the employee back into your employment or to pay the employee compensation based on length of service and loss of earnings.

Further information

- *BIS: Time off for Dependants: A guide for employers and employees.*
- *Time off for family and dependants, gov.uk.*

The Information presented here has been provided by



Bath Employment Law
EXPERT ADVICE MADE CLEAR

If you would like advice about how the issues in this factsheet apply to your situation, please contact Tony Brown on 01225 740097 or by email to tony@bathemploymentlaw.co.uk.

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