



Time off for dependants: Line manager briefing

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Introduction

This line manager briefing explains the right to take time off for dependants, and aims to guide managers on dealing with employees who take time off under this right.

It should be noted that the rights and duties discussed in this briefing are the minimum statutory rights and duties. Individual employers may offer their employees contractual entitlements over and above the minimum statutory rights. Employees' contractual terms may therefore be the source of further rights and duties that line managers will be required to take into account.

The definition of dependants

Employees have the right to take a reasonable amount of time off work for their dependants. Dependants in respect of whom an employee can take time off are:

- the employee's spouse or civil partner;
- the employee's child;
- the employee's parent;
- a person who lives in the employee's household (excluding tenants, lodgers and employees);
- a person who reasonably relies on the employee for assistance in the event of an accident or for care in the event of an illness or injury, for example an elderly neighbour; and

- in relation to the disruption or termination of care for a dependant, a person who reasonably relies on the employee to make arrangements for the provision of care.

The purpose of the absence

The right to time off work for dependants is limited to dealing with an unexpected event involving a dependant.

The circumstances in which employees may take time off for dependants are specified in legislation. These are to:

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

The right to time off is limited to taking action that is necessary to deal with one of the above unexpected events. Its purpose is to allow an employee a short period of breathing space to deal with a dependant:

- **Providing assistance if a dependant falls ill, gives birth or is injured or assaulted:** Providing assistance includes, for example, providing immediate care to a dependant

to deal with an unexpected incident, or seeking medical attention for the dependant. However, it does not include taking a dependant to a planned medical appointment or providing care beyond the reasonable amount necessary in an immediate crisis. Illness includes physical and mental conditions, and the employee's dependant does not need to have a serious or life-threatening condition. An employee who is the parent of a pregnant woman, or who is an expectant father who has chosen to take paternity leave several weeks after the birth of the child, may be entitled to accompany the expectant mother when she attends hospital for the purpose of giving birth, for example.

- **Making arrangements to provide care to a dependant who is ill or injured:** If, for example, an employee's partner has an accident, the employee is entitled to take time off work to make arrangements for someone to care for the dependant at home while he or she recovers. However, the employee would not be entitled to take, say, two weeks off work to care for the individual until he or she has fully recovered.
- **To deal with the death of a dependant:** This includes making logistical arrangements following the death of a dependant, for example making funeral arrangements and attending the funeral. It does not include, for example, time off for bereavement counselling.
- **To deal with the unexpected disruption or termination of arrangements for the care of a dependant:** This includes providing immediate care or making arrangements

for long-term care following a breakdown of the dependant's care arrangements. For example, an employee may be able to take a day off work to look after his or her child or to arrange alternative care for the child if the child's nanny is sick. It does not include providing long-term care for the child.

- **To deal with an incident involving the employee's child during school hours:** This includes, for example, where a parent needs to attend his or her child's school because the child has been involved in a fight or accident.

Employers may offer their employees time off work over and above the basic legal entitlement under the right to take time off for dependants. For example, some organisations offer compassionate leave to employees following the death of a dependant, to allow the employee time to grieve. Additional entitlements are likely to be provided in the organisation's contracts of employment and policies and procedures, so line managers should familiarise themselves with these documents.

The frequency of absences

The legislation permitting employees to take time off for dependants does not place a limit on the number of times that employees can take time off work. For example, where an employee has a young son who, over the course of a year, is unable to attend school on several separate occasions due to sickness (because he has chicken pox, then an ear infection, then a sore throat) the employee will be entitled to take time off on each occasion.

The manager should take into account the circumstances and treat each situation on the basis of whether or not the time off is reasonable and necessary.

The length of the absence

The legislation permitting employees to take time off for dependants does not place a limit on the amount of time off that an employee can take. Employees are entitled to a reasonable amount of time off work to deal with an unexpected event. The appropriate length of the employee's absence will vary according to the employee's circumstances. For example, only a few hours may be required to deal with one situation, but in another situation, one or two days may be necessary.

The needs of the organisation

Line managers cannot take into account the operational needs of their organisation when assessing whether or not an employee is entitled to take time off for dependants, or whether or not the amount of time off that the employee needs to take is reasonable and necessary to deal with the particular circumstances. Even where the employee has an important deadline to meet, this should not prevent the line manager from permitting the employee to take time off.

Eligibility for time off

All employees are entitled to take time off for dependants, and they do not need to have accrued a minimum period of continuous service to be eligible. This includes part-time employees and those on a fixed-term contract.

Line managers should not discriminate against employees when dealing with time off for dependants. For example, they should treat a male employee who needs to take time off to look after a child no less favourably than a female employee in a similar situation, and someone in a same-sex relationship who needs to take time off to look after his or her partner no less favourably than someone in a heterosexual relationship in a similar situation. Managers should deal with all instances of time off for dependants on the basis of whether or not the time off is reasonable and necessary.

Procedure

Line managers should become familiar with the process for taking time off for dependants.

Informing the employer

Employees who need to take time off for dependants must inform their line manager of the reason for their absence, and the estimated length of the absence, as soon as reasonably practicable, but they do not need to give detailed information about the purpose of the time off. The employee should contact the manager on the first day of the absence to let the manager know that he or she will not be coming into work.

Depending on the circumstances, the employee may not know exactly how much time off he or she will need to take to deal with the situation. On being informed of the expected length of absence, the manager should ask the employee to contact him or her if anything changes.

Due to the nature of the right to take time off for dependants, employees are unlikely

to have notice of the need to take time off. However, in some circumstances, an employee will have prior warning. In one case, an employee who had two weeks' notice of the absence of her children's nanny was entitled to take time off on the day of the nanny's absence because she had tried to make alternative arrangements for their care. Although the event was not sudden, in that she had notice of the nanny's absence, it was unexpected at the time that she was given the notice, and she had taken steps to make alternative arrangements in the short timescale between the notice and the absence. In these circumstances, the employee should inform the manager of the need to take time off as soon as he or she is aware of it, and take appropriate steps to make alternative arrangements to avoid having to take the time off. The longer the notice the employee has, the greater the obligation on him or her to make alternative arrangements.

The employee may not wish the reason for the absence to be announced to other employees, so the manager should exercise tact and discretion to ensure the employee's privacy.

The format of the information

There is no formal procedure for employees to inform their manager of their absence. In most circumstances, a telephone call on the day of the absence will be appropriate. However, the employer's policies and procedures on time off may set down a procedure that employees should follow if they have prior warning that they will need to take time off, or when they return to work after the time off, for example filling in an absence notification form. Line managers

should check their organisation's policies and procedures on time off.

Updates

Once an employee has informed the manager that he or she is taking time off for dependants, the employee does not need to continue to update the manager unless the situation changes, for example if he or she needs to take more time off than expected.

Failure to return

If the employee does not return to work on the day that he or she indicated that he or she would return, the line manager should contact the employee. The manager should ask the employee when he or she envisages returning to work.

If the manager considers that the time off no longer qualifies as time off under the right to take time off for dependants, the manager should explain this to the employee. However, the manager should adopt a caring attitude, because the employee may still be experiencing personal difficulties. If the employee still wishes to take time off, the manager could explore alternatives, for example it may be convenient for the employee to take annual leave.

The line manager's attitude

The line manager should adopt a sympathetic approach towards an employee who is taking time off for dependants and not put pressure on the employee, for example by reminding the employee of the team's deadlines. The manager should not contact the employee unnecessarily during the time off, and should give the employee time and space to deal with his or her personal situation.

Rights during time off

Employees are not entitled to be paid while they are taking time off for dependants. However, all of the other terms and conditions of employment are preserved. For example, annual leave continues to accrue while the employee is absent.

The employer might decide to continue to pay the employee's salary during the time off, for example because of the administrative burden of amending the payroll, or because it considers that this will contribute to making it an employer of choice. The manager should check the employer's policies and procedures on time off to determine if the employer offers more generous provision.

Performance of the employee's work

Line managers should ensure that, while an employee is absent under the right to time off for dependants, his or her work continues to be performed, if necessary. To enable work continuity in such circumstances, the manager should ensure that he or she has a record of all team members' tasks. It may be appropriate for the manager to ask the employee what work needs to be performed when the employee contacts the manager to inform him or her of the need to take time off. If work needs to be done, it might be appropriate for the manager to distribute tasks among the employee's colleagues, rather than obtain temporary cover, because the employee is likely to be absent for a short period only.

Supporting the employee on return to work

Line managers should consider what support an employee might need on his or her return

to work. For example, the employee might have become a carer for a dependant following an accident, and might benefit from flexibility on the employer's part. Support for the employee could include:

- accepting a request for flexible working, on either a long- or a short-term basis;
- reallocating the employee's duties on a short-term basis, for example where he or she is upset following a bereavement and would prefer not to have client contact;
- providing the employee with private space to make or receive telephone calls, for example where he or she is the dependant's carer; and
- being flexible over the employee's break times so that he or she can make or receive telephone calls when necessary, for example where the employee is the dependant's carer.

People cope with crises in different ways, and it might be that the employee simply wants some breathing space on his or her return to work. The manager should have a private discussion with the employee on his or her return to work, to determine the employee's needs.

Absences not falling under the right to time off for dependants

When an employee explains that he or she needs to take time off in an emergency, the circumstances may not fall under the right to take time off for dependants, for example where the employee needs to deal with the breakdown of a boiler. Depending on the organisation's policy on such matters, the line manager could explore whether or not alternative arrangements would be suitable,

for example it may be appropriate to allow the employee to take annual leave at short notice, or he or she might be able to work from home or make up the missed hours.

In some circumstances, for example where the employee has telephoned with a trivial reason for not attending work, the manager may have to explain that, if the employee does not attend work, this will amount to unauthorised absence entitling the employer to instigate the organisation's disciplinary procedure.

Where an employee is taking time off for dependants, there may be circumstances where the manager has reasonable grounds for believing that the employee is abusing the right to time off, for example where the manager suspects that the employee is lying about the purpose of the time off. Here, the first step is for the manager to conduct an investigation. The manager could ask the employee to provide evidence of the purpose of the time off where there are reasonable grounds for doing so, or a signed written statement from the employee. The manager should proceed with caution: the employee is not required to provide evidence when taking time off, but if the manager considers that the employee is abusing the right to time off for dependants, it is likely to be appropriate for him or her to ask for evidence as part of the investigation.

Legal remedies for employees

Where a line manager unreasonably refuses a request for time off for dependants, the employee may bring a claim in the employment tribunal seeking a declaration to this effect and compensation.

Line managers cannot subject an employee to a disadvantage for exercising, or seeking to exercise, the right to time off for dependants. For example, it would be unlawful for a manager not to consider an employee for promotion because he or she has taken time off for dependants. The employee may bring a claim in the employment tribunal seeking a declaration and compensation.

Line managers cannot dismiss an employee, or select an employee for redundancy, for exercising, or seeking to exercise, the right to time off for dependants. An employee who has been dismissed or selected for redundancy for exercising this right can bring a claim of unfair dismissal. There is no minimum service requirement for the employee to be able to claim unfair dismissal in these circumstances. If the employee's claim is upheld, the tribunal will make an award of compensation.

Dos and don'ts

- Do adopt a flexible, caring and balanced approach when an employee has an emergency in relation to a dependant.
- Do appreciate that the situation may be stressful for the employee.
- Do let the employee know that he or she has the organisation's support.
- Don't contact the employee during the time off, unless absolutely necessary.
- Don't react negatively to an employee who is taking time off for dependants.
- Don't ask the employee to undertake work while he or she is taking time off for dependants.

Further information

This resource has been developed in partnership with XpertHR. Family Friendly UK members can access further information on this and related topics at www.xperthr.co.uk. Register on the site to receive three free credits per month to view articles. You may also like to view:



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Policies and documents

- [Time off for dependants policy](#)
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Registered in England & Wales No. 3753345. Registered Charity No. 1077444. VAT Registration No. 833 0243 65

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