

TIME OFF FOR FAMILY AND DOMESTIC REASONS

The Employee Relations Order 1999 provides for a new legal entitlement for all employees to time-off to deal with incidents involving employees' dependants. This new right is enforceable from 15 December 1999.

What is time-off for Domestic and Family Reasons?

The Employee Relations Order 1999 provides a legal entitlement to **unpaid** time-off during working hours in the following circumstances:

- to provide assistance on an occasion when a dependant falls ill, gives birth or is injured or assaulted;
- to make arrangements for the provision of care for a dependant who is ill or injured;
- in consequence of the death of a dependant;
- because of the unexpected disruption or termination of arrangements for the care of a dependant;
- to deal with an incident involving a dependant child occurring unexpectedly during the child's school time.

Who is a "Dependant"?

A dependant is defined in the legislation as:

A spouse; a child; a parent; a person living in the same household, other than as an employee, tenant, lodger or boarder.

Unmarried partners of the opposite or same sex and living together, will be classified as dependants by this definition.

Where the reason for time-off is to provide assistance in the event of illness, injury or birth, a dependant includes any person who reasonably relies on the employee:

For assistance on an occasion when the person falls ill or is injured or assaulted or to make arrangements for the provision of care in the event of illness or injury.

This will include, for example, elderly relatives not living in the same household but reliant on the employee to assist them in the event of illness or injury.

Who has the Right to Time-off?

All employees, which will include all teachers employed under a contract of employment, will have the right to time-off. There is no qualifying period of service required and will apply from day one of employment.

How much Time-off is Allowed?

The amount of unpaid time-off during working hours is that which is “reasonable”. There is no definition in the legislation of what is “reasonable” and it will, therefore, vary according to each case on its merits and each set of circumstances.

School Reps/NC Members representing members in requests for time-off are advised to press for the maximum which is reasonable in each individual circumstance. See also the following section on notification requirements.

What are the Notification Requirements?

There are no special notice arrangements, but an employee must inform his or her employer the **reason** for the absence **as soon as reasonably practicable**. Except where the requirement to give reason cannot be complied with until after the employee has returned to work, the employee must also inform the employer of how long he or she expects to be absent.

How can the Legal Entitlement be Enforced?

An employee may present a complaint to an Industrial Tribunal that the employer has unreasonably refused time-off.

Such a complaint must be presented to an Industrial Tribunal within 3 months of such a refusal.

Where an Industrial Tribunal finds a complaint well founded, it shall make a declaration to that effect, and may make an award of compensation to be paid by the employer. The amount of compensation will take account of the employer's actions in refusing time-off and any loss suffered by the employee.

How does this Legal Entitlement Relate to Parental or Maternity Leave?

The right to time-off for domestic and family reasons is entirely separate from, and additional to, any entitlement to parental and/or maternity leave.

What is the Effect of this Legal Entitlement on the Existing Teachers' Leave of Absence

Arrangements? (INTO Leaflet No 15)

Existing teachers leave of absence arrangements in Northern Ireland are in many cases better for teachers than the statutory minimum right to time-off because they provide for leave with pay. These arrangements are unaffected by the entitlements under the Employee Relations Order.

Existing leave of absence arrangements for teachers are subject to an element of discretion although this is circumscribed by custom and practice. School Reps should ensure that existing practice continues to apply and that members do not rely on the new unpaid legal right to time-off to their detriment.

The new legal right should provide additional rights, which supplement the existing arrangements for leave of absence. For example, the Northern Ireland agreement describes

specific numbers of days to be allowed for specific reasons. The statutory entitlement may offer more flexibility in individual circumstances where the question of what is “reasonable” is not pre-determined. The statutory entitlements may cover additional reasons for which time-off is permissible. School Reps are advised to seek to maximise members’ rights by relying on both existing and statutory provisions.

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