

COVID-19 and Time off for Dependents

When does the right apply?

Employees have a statutory right to unpaid time off to help someone who depends on them in an emergency such as a child or a relative. This right is designed to allow a carer to put in place arrangements for the care of a dependant.

This could apply if children could not attend school due them being closed or a dependent needed to self-isolate or becomes seriously ill.

Does the employee need to live with the dependent?

A dependant does not necessarily have to live with the employee, for example they could be an elderly neighbour or relative who relies on them for help.

It is worth noting that if the dependent does live with the employee and either has the coronavirus or coronavirus symptoms then the latest government advice is that they too must self-isolate, even if they don't have symptoms. In such circumstances the employee would be entitled to SSP or contractual sick pay if the contract provided for it.

Is the employee entitled to be paid for the leave?

In the event the person is not self-isolating, there's no statutory right to pay for this time off, but you may have a more generous policy in place which provides for some of the leave to be paid.

How much leave is reasonable?

Whilst a couple of days leave may be reasonable under normal circumstances, care may be harder to come by given the present circumstances.

Therefore, we suggest employers take a pragmatic approach and consider options such as working from home (for all or part of the day, which would be paid at the employee's usual rate) or allowing holidays. If the dependent did not live with the employee, it may be possible to agree a flexible working pattern so that the employee can still work around their caring responsibilities, for example start later/finish earlier or an extended lunch break if they needed to drop off shopping or medicines for the dependent.

Can I ask for evidence?

Whilst it may usually be prudent to ask for evidence to prevent abuse, this may not be necessary or appropriate in the current climate. For example, given the government has announced partial school closures, there is no need to ask for evidence if you know the employee has school age children who will be affected. The government has introduced online Isolation notes which will provide employees with evidence for their employers that they have been advised to self-isolate due

to coronavirus, either because they have symptoms or they live with someone who has symptoms, and so cannot work.

The notes can be accessed through the NHS website and NHS 111 online. The user is required to answer a few questions, following which the note will be emailed to them or direct to their employer if they chose. Therefore, you could ask for a copy of the isolation note.

As the note is provided without contacting a doctor, the system relies on the good faith of individuals answering the questions honestly. Given the current climate you would hope that most people will do this, however, if you have reason to believe that an employee has acted dishonestly then this could be considered gross misconduct and will need to be investigated in accordance with your disciplinary policy.

Can an employee who is unable to work because they have caring responsibilities as a result of COVID-19 be furloughed?

Yes. The Guidance on the Coronavirus Job Retention Scheme provides that employees who are unable to work because they have caring responsibilities resulting from COVID-19 can be furloughed. For example, this could include employees that need to look after children.

Please note that the above guidance is subject to the current government guidelines which are being updated regularly. Therefore, please check for any changes.

We'll keep you posted.

**Vista Employer Services Ltd
21 October 2020**