

## From 1 October 2014 - New right to time off to accompany a pregnant woman to ante-natal appointments

### The statutory right to time off

From 1 October 2014 the partner (male or female), spouse or civil partner of an expectant mother (i.e. those with a qualifying relationship) has the right to take unpaid time off to accompany the expectant mother to ante-natal appointments. The right also applies to the intended parents of a surrogate child or applicants of a parental order of a surrogate child.

The right applies to employees (individuals working under a contract of employment) from the first day of employment and also to agency workers (as defined under the Agency Workers Regulations 2010) who have reached the 12 week qualifying period for equal treatment.

If an agency worker is engaged on a **contract of employment**, he or she will be entitled to the right to take time off from day one without the need to complete the 12 week qualifying period.

The right allows for attendance at one or two appointments made on the advice of a registered practitioner, midwife or nurse for a period of up to six and a half hours for each appointment.

If the employer (or in the case of an agency worker) the agency or hirer requests it, the employee/agency worker must provide a written declaration stating the following in order to take the time off:

- a) that the employee/agency worker has a qualifying relationship with a pregnant woman or her expected child;
- b) that the employee's/agency worker's purpose in taking time off is to accompany the pregnant woman to attend an ante-natal appointment;
- c) that the appointment in question is made on the advice of a registered medical practitioner, registered midwife or registered nurse; and
- d) the date and time of the appointment.

Note that agency workers, who are engaged under a **contract for services**, already have a degree of flexibility which means that even without this specific statutory right they can generally choose when to be available for work or not available for work. This is in contrast to employees (engaged under a contract of employment) who are under an obligation to do the work provided to them.

However, where the employee/agency worker is relying on the statutory right, he or she will be entitled to take legal action if the employer/agency unreasonably prevents the employee or agency worker from taking the time off.

The maximum six and a half hours permitted for each appointment is the time that employee/agency workers is permitted to be away from work including time travelling to the appointment, waiting time and the appointment itself.

Taking time off which is not covered by the statutory right

As was the case before 1 October 2014, employers and employees/agency workers can choose to agree provisions for paid/unpaid time off in accordance with their contracts or on a discretionary basis. For example, given that the new right is to take unpaid leave off, employees or agency workers may wish to use annual leave to attend an appointment and this should be requested arranged applied for in the usual way, in line with the employer's procedures.

Employees and agency workers who would like to attend more than two appointments may wish to book further unpaid time off and this should be requested in the line with normal procedures already in place (e.g. as time off might be arranged for dentists appointment for example).

As the statutory right only applies to agency workers (as defined under the AWR) who have qualified for equal treatment and employees, requests for time off by other individuals are outside the scope of these provisions and will need to be considered in line with the contractual arrangements in place.

Further information is available in the [employer guide](#) provided by the Department for Business Innovation and Skills.

**REC Legal Team**

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