

15 TIME OFF

CONTENTS

15.1	BACKGROUND	15/2
15.1.1	Introduction	15/2
15.1.2	Types of time off	15/2
15.2	LEGAL POINTS	15/3
15.2.1	Working Time Regulations (WTR)	15/3
15.2.2	General provisions relating to time off	15/5
15.2.3	Family-friendly time off provisions	15/7
15.3	GOOD PRACTICES	15/10
15.3.1	Holiday	15/11
15.3.2	Bank and Public Holidays	15/11
15.3.3	Maternity leave and pay	15/11
15.3.4	Adoption leave	15/11
15.3.5	Paternity leave	15/11
15.3.6	Parental leave	15/11
15.3.7	Carrying out statutory duties	15/11
15.3.8	Compassionate leave	15/12
15.3.9	Career break/sabbatical	15/12
15.3.10	Fertility treatment	15/12
15.3.11	Religious festivals	15/12
15.4	DESIGN TIPS	15/12
15.5	CHECKLIST OF KEY POINTS	15/13
15.6	REFERENCE SOURCES	15/13
15.6.1	Websites	15/13
15.7	EXAMPLE PRE-MATERNITY EMPLOYER CHECKLIST	15/14
15.8	EXAMPLE MANAGEMENT OF TIME OFF RELATING TO RELIGION OR BELIEF IN THE WORKPLACE POLICY	15/16
15.9	EXAMPLE FAMILY-FRIENDLY POLICIES	15/16

15 TIME OFF

15.1 BACKGROUND

15.1.1 Introduction

Time is something that modern Western society has learned to value like no other resource. In the twenty-first century lives are lived at a faster than ever pace, cramming more activity into every hour. Technology has developed enormously, and although in many cases this has freed up time (eg through the use of domestic appliances), in other aspects of life many will admit that advances such as e-mail and mobile phones have only served to impose further on our time.

Social structures have changed beyond recognition. There are single parent families with no one to share responsibility, extended families that require a lot of juggling to maintain contact with all parties, and many more families where both parents work to meet the financial demands of today – a mortgage is often not sustainable on a single income. Added to all this we are geographically spread, and unlike our parents, who might have had close family and grandparents to lean on for extra support, the chances are today that our closest relatives live many miles away and are out of reach in emergencies.

On top of all of this, research has found that the UK is working ever longer hours, indeed more hours on average than any other European country. The concept

of the work-life balance was born from this ‘work hard’ culture to encourage individuals to reconsider the balance they have between work and the rest of life. Each individual will have different drivers; the most commonly debated is the balance that working parents face between career, financial demands and children. Equally, we live in an ageing society, and some working adults face pressure caring for elders whilst balancing work. Others have aspirations to live life to the full, with hobbies and sporting activities they wish to pursue.

15.1.2 Types of time off

As a result of increasing employee expectations and a raft of legislation supporting the need for time off, employers are now faced with a balance issue themselves: getting the work done whilst supporting employees to meet demands outside of work in a fair and legal manner.

Time off can be broken down into two types:

- 1 that which the employer is obliged to allow the employee, ie statutory rights
- 2 that which good practice ‘employers of choice’ offer employees.

Sickness absence falls into a third type. Whilst an employer would be expected to allow a reasonable period of absence due to ill-health, there is no specific

Statutory time off	Time off provided by employers of choice
Accompanying worker to disciplinary/grievance hearing	Bank Holidays
Adoption leave	Career break/sabbatical
Ante-natal care	Compassionate leave
Daily/weekly rest breaks	Enhanced entitlements of the statutory time provisions
Elected representatives	Fertility treatment
Employees under notice of redundancy	Moving leave
Holiday	Religious festivals
Jury service	Study leave
Maternity leave	
Parental leave	
Paternity leave	
Pension scheme trustees	
Public duties	
Safety representatives	
Study or training (young persons)	
Time off for dependants	
Trade union duties, training and activities	

legislation giving right to sickness absence time off. Employees have a right to be paid statutory sick pay if they qualify; however, employers have a right to manage unreasonable levels of absence from work.

15.2 LEGAL POINTS

This section summarises the legal points surrounding examples of leave supported by legislation. Some suggestions of how to enhance your organisation's time off provisions are provided in paragraph 15.3.

Throughout this chapter the terms 'worker' and 'employee' are used. This is an important distinction, as the Working Time Regulations 1998 (WTR) refer to workers, whereas other legislation refers to employees. A worker is defined as anyone who has entered into or works (or has worked) under:

- *either* a contract of employment (which includes a contract of apprenticeship)
- *or* any other contract (whether express or implied, oral or in writing) whereby an individual undertakes to do or perform personally any work or services for another party to the contract (except where that other party is a client or customer of any profession or business undertaking carried on by the individual).

This means that protection under the WTR is accorded to 'employees' as traditionally defined under the first option above, plus a wider group of workers who undertake work under other forms of contract under the second.

This section is divided into three sections covering:

- entitlements under the WTR (see paragraph 15.2.1)
- provisions relating to time off (see paragraph 15.2.2)
- provisions relating to family friendly policies (see paragraph 15.2.3).

15.2.1 Working Time Regulations (WTR)

These regulations do not apply to 'mobile' workers (those actually involved in travelling, as opposed to office based administrators) in organisations employing seafarers, those working on board ships and hovercraft, those working on inland waterways, road transport workers and those working in aviation. These industries have their own regulations relating to working time. However, as is noted later in this section, specific working time regulations were introduced in 2005 for those involved in road transport.

In addition the regulations do not apply to the armed forces, the police, those in domestic service and ministers of religion. Doctors in training are gradually being included – their maximum working week will be reduced to 56 hours by August 2007 and 48 hours by August 2009.

Daily/weekly rest breaks

An adult worker is entitled to 11 hours of uninterrupted rest between each working day and at least 24 hours' rest in each seven day period during which they work for their employer(s). Days off can be averaged over a two-week period, meaning two days off in a fortnight. Days off are in addition to annual holiday entitlement.

In addition to daily and weekly rest breaks, workers are entitled to a minimum 20 minute rest break during working time for each shift of six or more hours. This break should be scheduled during the shift and not at the beginning or the end.

In September 2006 the European Court of Justice ruled that the guidelines given by the DTI for UK employers were insufficient. The court stated that employers are obliged to ensure that their employees take breaks – whilst recognising that there is a limit to the 'policing' that employers are required to do. New DTI Guidance (October 2006) now states: 'Employers must make sure that workers *can* take their rest'. The words from the previous Guidance that employers '...are not required to ensure they do take them' is simply omitted.

Night workers

Night time is defined as a period which is not less than seven hours in length and includes the hours of midnight to 5.00. A night worker is a person who works at least three hours of working time during the period defined as 'night time' in the normal course of duties.

A night worker's 'normal hours of work' must not exceed 'an average of eight hours for each 24 hours', and an employer is under a duty to take 'all reasonable steps' to ensure that this limit is not exceeded in respect of each of its night workers. If the night work includes any special hazards or heavy physical or mental strain then the limit of eight hours in any 24 hour period must not be exceeded.

Night workers are entitled to a free health assessment before starting night work duties, and at regular intervals after the initial assessment. If a medical practitioner advises that the employee is suffering from health problems that might be affected by night work the employer must take all reasonable steps to move the employee to day work.

Young workers

Young employees (those above school leaving age but below 18) are entitled to 12 hours' uninterrupted rest in each 24 hour period and two days off each week. If a young employee is required to work more than 4.5 hours at a stretch, he or she is entitled to a rest of 30 minutes. Young employees should not normally work at night, ie between 22.00 and 6.00, although there are some exceptions for hospitals, hotels, and catering and retail organisations. The circumstances in which young employees may work between 22.00 and 6.00, or where the employee's contract provides for him or her to work after 22.00, between 23.00 and 7.00, are restricted. Employers are now under a duty to ensure that, in principle, young workers do not work at all during the following 'restricted periods':

- between 22.00 and 6.00
- where the worker's contract provides for him or her to work after 22.00, between 23.00 and 7.00.

Exceptions in specified sectors

This principle is, however, subject to exceptions in specified sectors where:

- the young worker's employer requires him or her to undertake work which is necessary to maintain continuity of service or production
- *or* to respond to a surge in demand for a service or product
- *or* no adult worker is available to perform the work, *and* performing the work would not adversely affect the young worker's education or training.

In these circumstances, the prohibition on night work *does not apply* to young workers employed (that is, young workers *can* work throughout the night):

- in hospitals or similar establishments
- in connection with cultural, artistic, sporting or advertising activities.

The normal restricted period is modified to the period between *midnight and 4.00* for young workers employed in:

- agriculture
- retail trading
- postal or newspaper deliveries
- a catering business
- a hotel, public house, restaurant, bar or similar establishment
- a bakery.

Young workers who are required to work for the whole or part of the night under these provisions must:

- be supervised by an adult where such supervision 'is necessary for [*his or her*] protection'
- be given an equivalent period of 'compensatory rest'.

All daily and weekly rest breaks are unpaid. The employer must ensure that workers can take their rest; however, they are not required to insist or check that workers do take them.

Holiday

Every worker, whether part-time or full-time, is entitled to four weeks' paid holiday a year under the WTR. A week's leave is the same amount of time as the length of time a worker works in a normal week.

This holiday is not in addition to Bank Holidays; therefore a worker who is not otherwise paid in respect of Bank Holidays may request to take them as part of the annual leave entitlement in order to receive payment for them. The Work and Families Act 2006 allowed provision for the government to change the law so that the current eight public holidays are made in addition to the four weeks' holiday. At the time of writing (November 2006) this is still under consultation. However, it is expected that making the eight public holidays additional to the four weeks will happen in stages, and it is expected that this will commence in October 2007.

The worker must give notice of when they would like to take annual leave. The employer has the right to decline a request if it is not an appropriate time, eg where a number of other workers have already requested the same time or during times of high business demand. Employers can set out times when leave must be taken, eg during 'shut-down', although they should be aware of any potential and indirectly discriminatory effect this may have on, for example, a particular religious group.

It is up to the employer to determine when a holiday year commences and ends. Failure to clarify this will mean individual workers have a holiday year that runs from their date of joining anniversary.

If a worker leaves, or his or her employment is terminated during the holiday year, he or she has the right to be paid in lieu for any accrued leave not taken.

On-call hours

On-call duty is generally classed as working time for the purposes of WTR. This will be the case even if the employee sleeps during part or all of the on-call time. The categorisation will depend on whether the employee is still 'under the control of the employer'

whilst on-call. Hence, if the employee has to remain on site whilst on-call this is likely to be working time. However, if the employee simply has to carry a pager, for example, but is free to go wherever they want this might not be classed as working time. There is no distinction in the statute, and these guidelines are built up from rulings in case law.

Mobile workers in road transport

As already noted, 'mobile' workers are governed by regulations within their own specific industries. From 4 April 2005, mobile workers involved in road transport are covered by the Road Transport (Working Time) Regulations 2005. The regulations stipulate that they are not allowed to work for more than six consecutive hours without a break. The break must be at least 30 minutes long if the total working period is six to nine hours, and at least 45 minutes if the total working period is to exceed nine hours. Night work must not exceed 10 hours in any 24 hour period. The average working time must not exceed 48 hours per week, although this may be increased to 60 hours per week as long as the average over a four month period does not exceed 48 hours. Self-employed workers will be covered by these regulations from 2009 (subject to a review planned in 2007).

15.2.2 General provisions relating to time off

Accompanying worker to disciplinary/grievance hearing

A worker has a right to request a colleague or a certified trade union official to accompany him or her to a disciplinary/grievance procedure. The law does not entitle a worker to insist on any other type of representative, such as a lawyer or a family member who is not a colleague. The worker's contract may provide enhanced rights of representation.

Elected representatives

Employees who act as representatives for consultation about redundancies or transfers of undertakings, or are candidates to be representatives of this kind, are entitled to reasonable time off with pay during working hours to perform these functions and to receive appropriate training.

Employees under notice of redundancy

An employee who has been continuously employed for two years or more and who is under notice of dismissal by reason of redundancy is entitled to reasonable time off 'during working hours' to look for new employment or to make arrangements for training for future employment.

Time off here is to be *paid*.

Jury service

Leave to carry out jury service must be granted where an employee has received notice from the courts that they have been called. The employee reclaims lost earnings directly from the courts.

From 6 April 2005 employees are able to take a claim to the employment tribunal if they believe they have suffered any detriment, or have been dismissed as a result of attending jury service. Detriment could include disciplinary action relating to the absence or the loss of a bonus. A dismissal that is related to jury service will be automatically unfair. This protection applies to all employees, regardless of length of service or age.

Pension scheme trustees

An employer that operates an occupational pension fund is obliged to permit a reasonable amount of paid time off to employees who are trustees of that pension fund. Time off is allowed for performing duties as a trustee and for training in connection with those duties.

Public duties

Employees have a right to unpaid time off to perform specified public duties:

- Justices of the Peace
- members of a local authority
- members of a police authority
- members of any statutory tribunal
- members of the managing or governing body of an educational establishment
- members of a health service or education body
- members of a prison visiting committee
- members of the Environment Agency.

The duties for which an employer is required to permit reasonable time off are any of the duties of a Justice of the Peace, or, as regards membership of any one of the bodies listed above, to:

- attend meetings of the body or any of its committees or sub-committees
- perform duties approved by the body.

Reservists

Employers of reservists who are called up are obliged to re-employ them afterwards, provided they make a written application within six months. These special provisions apply only if there has been an official call-out. Employees who are reservists must normally

make their own arrangements with their employers for time off for other purposes, such as training, eg for an annual Territorial Army camp.

Reservists receive payment from the government during a period of active service. Revised rates were introduced in April 2005, and will be reviewed on an annual basis. Employers of Reservists are able to claim any additional costs associated with employing a temporary replacement for a Reservist, up to a cap of £110 per day (correct as at November 2006). In addition, an employer can claim any one-off or non-recurring costs associated with employing a temporary replacement, such as an agency fee. An employer can also claim a re-training payment. These payments are uncapped.

Safety representatives

Safety representatives, either appointed by a union or by the employees, are entitled to take such time off as is necessary. They are entitled to normal pay during this time off.

Time off to study

Young people, ie those aged 16 or 17 or those aged 18 but who began relevant study or training before reaching that age, are entitled to paid time off for specified study or training.

Trade union duties/activities

An employer must permit an employee who is an official of an independent trade union recognised by the employer to take reasonable paid time off during normal working hours to carry out any duties concerned with:

- negotiations with the employer concerning any collective bargaining matter
- representing other employees in disciplinary/grievance meetings
- receiving information and consultation relating to redundancy or transfers of undertakings
- health and safety representative activity
- learning representative activity.

Union officials must also be permitted to take reasonable paid time off to undergo training in aspects of industrial relations that are relevant to their duties or that are approved by the TUC or the officials' own union.

Union members have the right to reasonable unpaid time off to:

- attend workplace meetings to discuss and vote on the outcome of negotiations

- meet with full-time union officials to discuss issues relevant to the workplace
- vote in union elections.

Sunday working

Retail workers who were employed as shop workers on or before 25 August 1994 are 'protected shop workers' and cannot suffer any detriment for refusing to work on Sundays. If they agree to work on a Sunday they lose this protected status. Retail workers who started after this date, or those who have lost the protected status are known as 'opted out shop workers'. They can give their employer three months' notice that they object to working on a Sunday and three months after this notice is given they receive the same protections as 'protected shop workers'.

Work on any religious day of festival

Aside from the specific regulations relating to shop workers and Sunday working there is protection for workers who refuse to work on a specific day because of their religion. The Employment Equality (Religion and Belief) Regulations 2003 prohibit discrimination against employees on the grounds of their religion or belief. However, if the employer can show that there is no reasonable alternative but for the employee to attend work the protection will be removed. (This legislation is new and there have yet to be any case rulings giving an indication of how this legislation will be applied by the courts.)

The table below provides a useful summary of the general provisions relating to time off explained above, excluding holidays and required daily and weekly breaks.

What is meant by 'reasonable'?

In most cases, the rights mentioned above do not give employees an automatic right to take time off. They can request the time off and the employer is obliged to agree a 'reasonable' amount of time off. Reasonableness in these situations will inevitably take account of a number of factors, including:

- the time required to perform, for example, public duties
- the relevance of any training
- the amount of time off that has previously been agreed to
- the effect of the employee's absence on the employer's business
- the surrounding circumstances, such as the current work situation.

Category	Service required	Time off provision	Payment terms/comments
Companions at disciplinary or grievance hearings	None	Reasonable time off to carry out their duties, ie in preparing for and attending the hearing	With pay
Elected representatives	None	Reasonable time off, including time off for relevant training	With pay
Employees under notice of redundancy	Two years	Reasonable time off to look for work or to arrange training	With pay
Jury service	None	As necessary – jurors are required to attend by the Juries Act 1974	At employer's discretion but employees can claim travelling, subsistence and financial loss allowances
Pension scheme trustees	None (unless dictated by the pension scheme rules)	Reasonable time off to carry out their duties and for relevant training	With pay
Public duties	None	Reasonable time off to perform his or her duties	Unpaid
Safety representatives		Reasonable time off to perform their functions and for union-approved or employer-provided safety training	With pay
Study or training (16 and 17 year olds with minimal educational qualifications)	None	Time off to undertake study or training which will lead to an NVQ Level 2 standard of educational achievement	With pay
Trade union duties, training and activities	None	Reasonable time off	With pay
Study or training (16 and 17 year olds with minimal educational qualifications)	None	Time off to undertake study or training which will lead to an NVQ Level 2 standard of educational achievement	With pay
Companions at disciplinary or grievance hearings	None	Reasonable time off to carry out their duties, ie in preparing for and attending the hearing	With pay
Pension scheme trustees	None (unless dictated by the pension scheme rules)	Reasonable time off to carry out their duties and for relevant training	With pay
Safety representatives		Reasonable time off to perform their functions and for union-approved or employer-provided safety training	With pay

Any assessment of reasonableness involves balancing the individual's request against the employer's reason for refusal.

15.2.3 Family-friendly time off provisions

In addition to the provisions listed below, see also Example 15.9.

Adoption leave

In April 2003 adoption leave and pay were made available to parents for the first time through the introduction of the Employment Act 2002. The rights are available to parents adopting a newly placed child and not to those who have previously adopted or who are adopting stepchildren. Both same-sex and

heterosexual couples qualify. To qualify for adoption leave and pay an employee must:

- be newly matched with a child for adoption by an approved agency
- have 26 weeks' service by the week he or she is notified of being matched with a child
- have earned more than the lower earnings limit in the eight weeks prior to notification of placement.

The primary carer may take up to 26 weeks' ordinary adoption leave, immediately followed by 26 weeks' additional adoption leave. Leave can start either from the actual date of the child's placement or up to 14 days before.

The contract of employment continues as normal, with the exception of remuneration, in the same way as it would with maternity leave.

Statutory Adoption Pay (SAP) is payable by the employer for the 26 weeks of ordinary leave at a flat rate equivalent to the lower rate of Statutory Maternity Pay, currently £108.85 per week, or 90% of the adopter's average weekly earnings, whichever is the lower figure.

The adopting parent has the right to return to work at the end of adoption leave in the same or a similar role on similar terms and conditions of employment following his or her leave.

Maternity leave and ante-natal care

All pregnant employees are entitled to 'ordinary' (see below for definition) maternity leave regardless of length of service.

In addition, pregnant employees are entitled to paid time off to attend antenatal care. To take advantage of maternity leave the employee must notify the employer of her intention to take leave by the notification week, ie the end of the 15th week before the expected week of childbirth (EWC). She must tell her employer:

- that she is pregnant
- the week her baby is due
- when she would like her maternity leave to start.

Maternity leave cannot commence earlier than the 11th week before the EWC, but a woman can elect to work right up to the date her baby is born. Leave will start automatically if she is absent from work owing to a pregnancy related illness in the four weeks before the EWC.

Overall, some women can take up to a maximum 52 weeks' maternity leave. There are three types of leave:

- compulsory
- ordinary

- additional.

The following terms apply to each type of leave:

*To qualify for SMP a woman must have 26 weeks' service by the beginning of the 14th week before EWC, and have earnings above the lower earnings limit for National Insurance contributions. SMP is paid for a period of 26 weeks:

- The first six weeks of SMP, commonly referred to as the 'higher rate', are paid at 90% of full pay, using the eight weeks before the end of the 15th week before EWC to calculate an average week's pay.
- The remaining 20 weeks of SMP are paid at a 'lower rate', which is the standard rate of SMP – currently £108.85 a week, or 90% of the woman's average weekly earnings, whichever is the lower.

If a woman is not entitled to SMP, her employer must provide her with an SMP1 form. She may take this form to a Social Security office and make a claim for Maternity Allowance.

The woman has the right to return to work at the end of maternity leave in the same or a similar role and on similar terms and conditions of employment following her leave.

See also Example 15.7.

The Work and Families Act 2006 changes the rules on maternity leave. The main changes are as follows:

- Any woman with a baby due on or after 1 April 2007 who is entitled to ordinary maternity leave (OML) is automatically entitled to additional maternity leave (AML) as well. In addition, the period of SMP is extended to 39 weeks (this still starts with a six week period of higher rate, followed by a 33 week period of lower rate.) Statutory Adoption Pay will also increase to 39 weeks, all at the lower rate.
- Women will be required to give eight weeks' notice if they wish to return early from maternity leave (increased from the current 28 days). This will also apply to returning early from adoption leave.
- 'Keeping in touch days' are introduced – employees on maternity (or adoption leave) can attend work for up to 10 days during the statutory leave period without losing statutory pay. This will also apply to those on statutory adoption leave.
- Statutory maternity pay will be increased to 39 weeks for those whose baby is due on or after 1 April 2007, and is expected to increase to 52 weeks by the end of Parliament. The same increase will apply to statutory adoption pay.

Type	Length of leave	Service required to qualify	Minimum entitlement to pay	Status of employment contract
Ante-natal care	None – applies to all pregnant employees	Time off to keep ante-natal appointments if medically advised	With pay – the employer can request evidence of the appointment	Continues
Compulsory	Two weeks' minimum legal requirement (runs concurrently with ordinary leave)	None	SMP* ² ; there may be more generous contractual provisions	Continues with the exception of remuneration
Ordinary	26 weeks	None	SMP* ² ; there may be more generous contractual provisions	Continues with the exception of remuneration
Additional	26 weeks (immediately following ordinary leave)	26 weeks by the end of the 15 th week before EWC	None; there may be more generous contractual provisions	Continues, but with reduced rights and duties. There is no right to remuneration or fringe benefits, but some contractual rights apply, and it may be indirectly discriminatory not to allow holiday to accrue; some employers do therefore allow its accrual

Parental leave

Parental leave was first made available in the UK in December 1999. It gives parents the right to take one or more periods of unpaid leave, up to a total of 13 weeks, to look after a child. Leave must be taken before the child's fifth birthday. To be entitled to take parental leave, an employee must:

- have completed one year's qualifying service with the employer
- be the parent, or have acquired formal parental responsibility under the Children Act 1989 or be the spouse or civil partner of the parent and have acquired formal parental responsibility or have adopted a child under the age of 18 years.

The definition of a 'parent' is a wide one, and includes not only biological but also adoptive parents, including stepchildren.

Employees must give at least 21 days' notice in writing of a request to take leave, and employers have the right to postpone leave if it is not a suitable time. Women on maternity and those taking adoption leave can elect to extend their maternity/adoption leave by taking a period of parental leave. Parental leave can be taken for

up to 13 weeks (in the case of multiple births each child qualifies) in blocks of one to four weeks at any one time, and no more than four weeks in any year. At the end of leave the employee is entitled to return to work in the same job on the same terms and conditions of employment.

Paternity leave

Since April 2003 fathers and partners have had a statutory right to take two weeks' paid paternity leave on the birth of a baby or placement of a child for adoption (only two weeks even in the case of twins, ie not per child). To be entitled to take leave an employee must:

- have 26 weeks' service by the end of the 15th week before the baby is due or child placed for adoption
- earn more than the lower earnings limit (fathers/partners who earn less than this may still take leave; however, it will be unpaid).

The employee wishing to take leave must notify his employer at least 15 weeks before childbirth or immediately on being told of an adoption placement. Actual dates of childbirth are difficult to predict, and notice to take leave can take one of two forms:

- to commence immediately following the birth or placement
- to commence on a specified date.

Unless otherwise agreed by the employer and the employee, the leave must be taken in a block of up to two weeks. There is no entitlement to take two separate periods of one week. Leave must be taken within 56 days of the actual birth or placement.

The mechanism for parental leave pay mirrors that of maternity pay. Paternity leave pay is equivalent to £108.85 a week or 90% of the employee's average earnings, whichever is the lesser. Only one payment of paternity pay is due, no matter how many different employers the employee works for.

The Work and Families Act 2006 allows for there to be additional paternity leave of up to a maximum of 26 weeks. If the mother has not used up all of her entitlement to statutory maternity pay or statutory adoption pay this may be transferred to the father. The specific details of this scheme and the timing of its introduction are not yet known.

Time off for dependants

Since December 1999 the Employment Relations Act has amended the Employment Rights Act 1996 (ERA) to give all employees, regardless of their gender or length of service, the right to take a reasonable period of unpaid time off work to deal with certain unexpected emergencies involving people who depend on them. The time off is granted so that the employee may make long-term care arrangements if required but not to carry out prolonged care themselves.

Employees are protected from being unfairly treated or suffering a detriment if they request or take family emergency leave.

In the legal definition, an 'emergency' arises when someone who depends on the employee:

- is ill and needs the employee's help
- is involved in an accident or is assaulted
- needs the employee to arrange longer-term care in relation to illness/injury
- needs the employee to deal with an unexpected disruption or breakdown in care, such as a childminder or nurse falling ill or failing to turn up
- goes into labour
- dies
- has an unexpected incident at school (children only).

Flexible working

Since April 2003 employees with a child under six, or a disabled child aged under 18, have the right to request flexible working. The flexibility can relate to:

- the hours they work
- the times they work
- the place they work.

To qualify for the right to make the request the employee must have had at least 26 weeks' continuous service. The request must be considered formally, and can only be refused on a specified number of grounds. These grounds are:

- the burden of additional costs
- a detrimental effect on organisational ability to meet customer demand
- inability to reorganise work among existing staff
- inability to recruit additional staff
- a detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes.

The process that must be followed in considering the request for flexible working is outlined in the example policy at the end of this chapter.

The Work and Families Act 2006 includes a provision to extend the right to request flexible working to carers of adults. At present there is no definition of what an 'adult' will be, ie whether this is restricted to a list of relatives, or whether a wider definition will be used.

15.3 GOOD PRACTICES

All of the statutory rights to time off can be varied by an employer through the employment contract provided they do not reduce those minimum rights in any way. Minimum rights cannot be 'traded' to buy alternative rights. As time off increasingly becomes a highly valued benefit we are seeing many more employers offering terms and conditions over and above those required by statute. This may be in terms of the actual time itself or in relation to how much time off is offered on a paid basis.

In more sophisticated organisations enhanced time off policies form part of a flexible benefits package, with employees allowed to trade additional offerings according to their personal needs whilst retaining those of a statutory nature.

15.3.1 Holiday

The number of days' holiday entitlement varies from employer to employer, and often also according to an employee's grade or length of service. Five or even six weeks' holiday per annum are not uncommon, although these more generous terms often require a period of service to have been completed to be accrued. The statutory minimum of four weeks' paid leave per annum may also include Bank Holidays – employers will need to decide, and state clearly, whether their policy is to include Bank Holidays within the four weeks' paid leave or to offer them in addition.

Note the comment earlier in paragraph 15.2.1, Holiday, about the proposed change to this rule.

15.3.2 Bank and Public Holidays

Although the UK recognises some eight Bank and Public Holidays each year (and on special occasions additional days are added, for example the Queen's Golden Jubilee), there is no statutory right to be paid for or have the time off on these days. For details of planned dates, see the website of the Department of Trade and Industry (DTI) at www.dti.gov.uk/employment/bank-public-holidays/index.html. The vast majority of organisations do however allow Bank Holidays to be taken as paid leave in addition to normal holiday entitlement, and some provide more than eight days per annum.

15.3.3 Maternity leave and pay

The statutory provisions for maternity leave can be enhanced in three principal ways:

- by reducing the qualifying period entitling a woman to additional maternity leave
- by providing a period of leave longer than the statutory maximum of 52 weeks
- by providing more general leave facilities which can be applied not just in the context of maternity but also in other circumstances, eg career breaks, and permitting part-time working on return.

There are a number of ways in which the statutory provisions on pay can be enhanced, including:

- increasing the level of pay above SMP, eg paying for some or all the weeks of ordinary and/or additional leave at two-thirds of pay or even at full pay
- maintaining other contractual terms (such as pensions) and non-contractual benefits during additional leave

- providing financial incentives to encourage women to return to work, eg a lump sum, enhanced pay on return, childcare vouchers or subsidised nursery places.

Some employers choose to place service requirements around such additional provisions or apply them only to certain grades of employee. In addition they might require that the employee returns to work for a minimum period of three to six months; otherwise enhanced benefits must be repaid.

15.3.4 Adoption leave

Adoption leave provisions can be enhanced in a similar way to those of maternity.

15.3.5 Paternity leave

Fathers and partners with 26 weeks' service receive two weeks' paternity leave at a maximum rate of £108.85 a week. Employers can elect to pay either one or both of these weeks' leave at a higher rate, eg at two-thirds of pay or even at full pay. In addition, some good practice employers allow fathers to attend ante-natal care along with their partner on a paid basis. This time is used to attend ultrasound scans, hospital consultant visits and parentcraft classes.

15.3.6 Parental leave

Few employers elect to enhance the arrangements surrounding parental leave from a financial or extended leave perspective. Some do however give greater flexibility on how parental leave can be taken, allowing employees to take leave in single-day units as opposed to week-long blocks. In these cases the rules around giving notice to take leave are relaxed and the local manager is made accountable for agreeing to allow days of leave.

15.3.7 Carrying out statutory duties

Leave to carry out statutory duties is usually granted without pay. Some generous employers allow employees to take some form of paid leave where they are carrying out statutory duties that do not cover the employee's loss of earnings. In the case of jury service, where there is a relatively low cap on loss of earnings that may be claimed, some employers offer a top-up for any shortfall.

Social responsibility is a subject increasingly on the agenda of organisations, and their role in the community is becoming important. It is not uncommon to find organisations that allow their employees time off work, paid or unpaid, to carry out community work. Good examples of this are employees participating in

reading programmes in local schools, mentoring head teachers or taking part in community challenges such as painting or environmental projects. For example, some large employers encourage all employees to participate one working day each year in a community based project.

15.3.8 Compassionate leave

Most good practice employers allow employees discretionary paid leave of between three and five days, depending on the circumstances, how long the employee has worked for them and their previous record of attendance.

15.3.9 Career break/sabbatical

Some employers offer employees the opportunity to take a career break or sabbatical from the organisation for a fixed period of time. The terms of such a period of leave vary. In some cases the contract of employment ends, although the employer offers to consider the employee favourably for re-employment at the end of his or her leave with continuous service. Some guarantee a job on return. Career breaks are often added to a period of maternity leave and last for between two and five years. Sabbaticals tend to be offered for a shorter period of time (eg three to 12 months) and are typically used for travel, study or to write a book.

15.3.10 Fertility treatment

There is currently no legal right to time off for fertility treatment. Undergoing such treatment is a stressful time for the employee and a sensitive matter to discuss with the employer. Having a sympathetic and open approach to fertility treatment avoids the situation where the employee feels forced to have to find 'other' reasons for taking time off.

Few employers offer paid time off to seek fertility treatment; however, it is a growing trend. One well-known high street food retailer has recently received much positive publicity through offering such a benefit. The employer would be well advised to agree upfront how many days will be permitted, because treatment can in some cases extend over a long period of time.

15.3.11 Religious festivals

Under new laws implemented in December 2003 discrimination in the workplace on grounds of religion or belief was outlawed. There remains, however, no automatic right to receive time off, paid or unpaid, for religious festivals.

It would be good practice, though, for employers to consult with staff about their religious leave requirements. Employees may prefer to work public holidays in place of their own religious festivals or book holidays to cover their festivals. Employers should consider such requests sympathetically, taking into account the:

- business needs
- burdens placed on other employees
- availability of and access to the work location
- safety and security of the workplace
- proviso of verifying that work has been completed
- financial viability of the arrangement.

Equally, employees are not entitled to paid time off to pray during a working shift. However, it is good practice recommended by the Advisory, Conciliation and Arbitration Service (ACAS) to designate accommodation and flexible working time to enable religious observance. This might include adjusting working hours or meal times to allow for an early departure, staggering working hours, allowing time off to be made up, shift-swaps and providing facilities to pray on site.

See Example 15.8.

15.4 DESIGN TIPS

The following are some examples of why an employer might choose to offer time off provisions over and above the statutory minimum:

- *To attract women to the organisation* – offering good family leave and pay policies can give an organisation the competitive edge over another in recruitment.
- *To retain valuable skill and experience in the organisation* – the ultimate aim of any time off policy must be to support and retain employees at key times in their lives.
- *To reduce the cost of recruiting* – selecting, training and developing new employees is a costly business both from a financial and productivity point of view.
- *To improve equal opportunities practice* – offering different types of leave both to men and women supports them equally at critical times of need; it creates enormous loyalty and avoids conflict through allegations of certain groups getting more time off than others.

Once written into the contract, terms and conditions over and above the statutory minimums are difficult to vary

unless there is a notice provision within the contract to do so or a mutual agreement by both employer and employee is reached. For this reason employers often refer to benefits over and above the statutory minimum as discretionary. However, care over their use would be wise, because if 'discretionary' benefits are applied on a regular and consistent basis they can become implied terms and conditions of the contract.

Before making the decision to offer enhanced time off (either with or without pay) employers should be clear about why they are doing so. It does not make good business sense to offer more simply because 'good practice' suggests that organisations should. An employer may choose to select specific types of time off relevant to his or her workforce and enhance these rather than make sweeping and costly enhancements to all types of leave. Having sound business reasons for enhancing pay and benefits will ensure the policy is seen as a strategic action to support business need. It will also enable key performance measures to be introduced and monitored, eg increased return rates from maternity leave or reduced absence levels following the introduction of compassionate or paid emergency carers' leave. Policy can then be regularly reviewed and updated to maximise the intended aim.

15.5 CHECKLIST OF KEY POINTS

- 1 Time off has become a highly valued employment benefit in our society.
- 2 Social structures have changed and more parents with dependant children and people with elder care responsibilities are present in the workplace.
- 3 Types of time off vary between those that are statutory minimum and those offered by generous, good-practice organisations.
- 4 All employees are entitled to a minimum of four weeks' paid holiday per annum.
- 5 There is no right to time off or pay for public/bank holidays. It is up to the discretion of the employer to offer this as a contractual benefit.
- 6 All adult employees are entitled to a minimum 11 hour rest period in each 24 hour period and at least 24 hours off in each seven day period.
- 7 Employees working shifts of more than six hours are entitled to a 20 minute break during that shift.
- 8 All employees are entitled to take unpaid emergency leave to deal with certain emergencies involving people who depend on them.
- 9 All pregnant employees are entitled to at least 26 weeks' maternity leave regardless of service and to return to work following leave. From 1 April 2007 this will extend to 52 weeks' regardless of length of service. See paragraph 15.2.3, Family Friendly Time-off Provisions.
- 10 Pregnant employees with 26 weeks' service are entitled to take up to 52 weeks' maternity leave.
- 11 Adoptive parents with 26 weeks' service are entitled to take up to 52 weeks' adoption leave to care for a newly placed child.
- 12 Partners of mothers with a newborn baby or child newly placed for adoption are entitled to take up to two weeks' paternity leave.
- 13 Parents of children under five are entitled to take up to 13 weeks' unpaid parental leave, multiple births qualifying for each child.
- 14 Employees are entitled to take unpaid time off to carry out certain public duties.
- 15 Trade union officials must be permitted to take reasonable paid time off to undertake their duties.
- 16 Young people aged 16 and 17 are entitled to take paid time off to study or attend training.
- 17 Minimum statutory rights to time off cannot be 'traded' to buy alternative rights through a flexible benefits scheme.
- 18 Many good-practice organisations offer enhanced periods of the statutory leave entitlements, some also offering additional pay.
- 19 Career breaks and sabbaticals are increasingly used as a retention tool to allow employees to take a break and then return to the workplace.
- 20 Where increased rights to time off and pay are offered, employers should put in place measurement tools to monitor their effect.

15.6 REFERENCE SOURCES

15.6.1 Websites

A list of the Department of Trade and Industry (DTI) publications can be found at www.dti.gov.uk/publications

Tailored advice for employers from the key Government departments is available at the BusinessLink website at www.businesslink.gov.uk

Rights to time off for trade union activities at the ACAS website at www.acas.org.uk

Details of benefit payments at www.dfwp.gov.uk

More on religious holidays and festivals at www.interfaithcalendar.org

15.7 EXAMPLE PRE-MATERNITY EMPLOYER CHECKLIST

Once an employee has told you she is pregnant, arrange to meet with her and discuss all the following points:

- 1 Ask when her baby is due.
- 2 Inform her of her right to take paid time off for ante-natal care/classes and/or medical advice. Explain the need for her to inform you of appointment times prior to taking time off.
- 3 Discuss the type of work she is doing and inform her that if she is advised by her doctor or midwife not to continue with this type of work you will adjust her working conditions or move her to an alternative role with no loss of pay.
- 4 Arrange a date to meet and discuss her full entitlements to leave and pay.
- 5 Discuss what leave she is entitled to, how much she might like and when she hopes to commence leave. *(Note: she does not need to decide these things now; however, it is useful to have a guide so that you can plan for her absence.)*
- 6 Discuss what maternity pay she will be entitled to.
- 7 Discuss which benefits will cease and which will continue during her leave.
- 8 Discuss the notice she will need to give in order to confirm when she intends to start leave and the MATB1 form she will need to get from her midwife.
- 9 Discuss arrangements for returning to work and any notice period she will need to give if returning early.
- 10 Discuss how you will keep in touch during maternity leave.

15.8 EXAMPLE MANAGEMENT OF TIME OFF RELATING TO RELIGION OR BELIEF IN THE WORKPLACE POLICY

CONTENTS

- 1 The purpose of these guidelines
- 2 What the Regulations are
- 3 What the Regulations cover, with examples
- 4 Practical management of the Regulations
- 5 Questions and answers
- 6 Further information

1 THE PURPOSE OF THESE GUIDELINES

These guidelines have been produced to increase your awareness of the Employment Equality (Religion or Belief) Regulations 2003 and to assist you with the practical management issues relating to time off that may arise out of these Regulations.

The content of this guide offers information that you will need to consider, including scenarios that would be considered direct discrimination, indirect discrimination, harassment or victimisation. Discrimination on grounds of religious belief has existed in the Republic of Ireland since the introduction of the Employment Equality Act 1998, and in Northern Ireland since the Fair Employment (Northern Ireland) Act 1976; however, these guidelines can be applied in these areas as well.

2 WHAT THE REGULATIONS ARE

The Employment Equality (Religion or Belief) Regulations came into force on 2 December 2003.

The regulations make it unlawful to discriminate against workers on grounds of their religion, religious belief or similar philosophical belief. This does not include any philosophical belief or political belief unless it is similar to religious belief.

[*Insert name of organisation*] already recognises that discrimination of any kind is inappropriate behaviour that we will not accept from any of our employees. This would include discrimination on grounds of political or religious belief, and the Equality and Diversity Charter states that we will 'deal swiftly and decisively with any incidents of discrimination or other inappropriate behaviour'.

3 WHAT THE REGULATIONS COVER, WITH EXAMPLES

DIRECT DISCRIMINATION

EXAMPLE

A member of staff is not allowed time off for a religious festival when members of another religion have been allowed time off for a festival relating to their religion.

INDIRECT DISCRIMINATION

EXAMPLE

Employees are told that they must change their working hours, which include working past sunset on Friday. Orthodox Jews cannot meet this requirement, and hence the requirement indirectly discriminates against them.

(Note: if a good business reason can be shown for the requirement, and there is no option to all employees working the revised hours then it might be possible to justify the requirement.)

HARASSMENT

EXAMPLE

A member of staff is continually teased about attending a religious festival. They find this teasing offensive and distressing. This situation may constitute discrimination on grounds of religion or beliefs, because it is the victim's religious beliefs that are the subject of the harassment.

VICTIMISATION

EXAMPLE

A member of staff gives evidence for a colleague who brought an employment tribunal claim against the organisation they work for on grounds of religion or belief. This member of staff then applies for a promotion and, although she has all the appropriate skills and experience, she is rejected because she has been labelled a troublemaker on account of having given evidence at the tribunal.

4 PRACTICAL MANAGEMENT OF THE REGULATIONS

RETENTION OF EXCELLENT EMPLOYEES

We must ensure that we are sensitive to the needs and requirements of our employees at all times. However, they also have a responsibility to ensure that their managers are aware of their needs so that there is a clear opportunity for them to be met.

Make sure that all of your team are aware that discrimination, harassment and victimisation are totally unacceptable. As a manager, you should ensure that you inform your team of all avenues to take for advice, guidance and support on these sensitive issues. Sources for advice, guidance and support are detailed in the 'Further Information' section at the end of this guide.

RELIGIOUS OBSERVANCE

There are many religions or beliefs that have special festivals or spiritual observance days, and employees may request holidays for these times. Employees are responsible for making their manager aware of these special festivals or observance days as far in advance as possible. The earlier the employee informs their manager, the easier it will be to book the holiday or for discussions between colleagues to take place to allow flexibility or mutually acceptable compromises.

Some religions require their followers to pray at certain times of the day, and managers should wherever possible allow their employees to take these times. Employees may request a quiet, private room for these times. Managers should allow both the time and the room wherever possible, as long as this does not cause significant problems for other employees or for the business.

LIFE EVENTS

Events such as weddings and funerals may require an employee to be away from work for a prolonged period of time. An employee should factor this time into their request for holiday. However, managers should be aware of why the holiday has been requested or, in the case of a funeral, how long a reasonable period of compassionate leave is required.

It is important to establish what marks of respect or time frames the religion dictates. The Hindu religion, for instance, observes a 13 day mourning period after a cremation, during which time adherents may wish to stay at home; the closest male relatives of the deceased may also shave their heads as a mark of respect.

5 QUESTION AND ANSWER

Q. I have two members of my team that need the same time off for a religious festival. Who do I give priority to?

A. Treat this situation the same way that you would for any team members asking for the same holiday period. Use the guidance in the staff manual on booking holidays to give priority to the relevant team members. Can you allow both people off at the same time?

6 FURTHER INFORMATION

See also the ACAS publication *Religion or Belief and the Workplace* ACAS/EEL01.

15.9 EXAMPLE FAMILY-FRIENDLY POLICIES

INTRODUCTION

It is the policy of the company to ensure that as far as possible you are able to combine your career and family responsibilities. We recognise that parenthood brings additional responsibilities.

Therefore we have set out our policies for complying with this and allowing you your full rights. The family-friendly policies set out the rules relating to:

- maternity leave
- adoption leave
- paternity leave
- parental leave
- flexible working.

You should follow the respective policy/policies. If you have any queries, please contact [*insert job title of person*].

MATERNITY LEAVE POLICY

(Note: some of the detail of this policy will change following alterations to the law affecting women with babies due on or after 1 April 2007. The areas that will change are highlighted below.)

POLICY STATEMENT

We value the contributions of our female staff and every effort is made to encourage women to return to work from maternity leave. This policy applies to all employees, full-time and part-time.

We also recognise that arrangements for cover during the period of maternity leave and additional leave, as well as arrangements for communication during maternity leave, are important for ensuring smooth transitions at every stage.

MATERNITY LEAVE

When you receive medical confirmation that you are pregnant, you should notify [*insert job title of person*] of this, the expected week of childbirth (EWC) and the date on which you want or expect to commence maternity leave (which must not be a date earlier than the 11th week before the EWC). If requested to do so, you should provide a medical certificate confirming it.

As soon as practicable after the notification of your pregnancy, arrangements will be made for you to meet with [*insert job title of person*]. This will be an informal interview, the purpose of which is to ensure that:

- you understand your right to ordinary maternity leave and additional leave, including the requirements for you to give appropriate notices
- the right to return is explained, together with any potential opportunities for flexible working
- arrangements for time off are known, and any possible health and safety concerns are aired
- you know your entitlements to payment during maternity leave.

We recognise that orderly arrangements for cover during the period of maternity leave and additional leave and also for enabling you to keep in touch with any developments at work are important for ensuring smooth transitions at each stage. Accordingly, prior to commencement of maternity leave you will be informed of the arrangements for covering your work and also for providing you with opportunities to remain in contact whilst you are on leave. As far as possible, such arrangements will be finalised in consultation with you. If you have staff reporting to you, we will endeavour to ensure you are involved in all decisions relating to the temporary reporting arrangements to cover your maternity leave.

In addition, you will usually remain on circulation lists for internal memoranda and other documents, and will be included in invitations to work-related social events as though you were still at work.

We will try to ensure that maternity leave does not cause you any long-term disadvantage in relation to your training needs and/or self-development.

As you have the right to return to your own job after ordinary maternity leave or to a suitable alternative one if this is not practicable after your additional maternity leave, we will seek to avoid your being put into a position of potential redundancy while on maternity leave. In accordance with statutory requirements, where job losses are unavoidable, you will be given first consideration for any suitable alternative employment that may arise.

At least two weeks before you are due to return to work, you may be invited for an informal meeting with [*insert job title of person*] in order to provide an opportunity for discussion of any material points concerning your return to work. These include:

- updating you on developments at work
- considering whether any retraining needs have arisen, because of staleness or new technical or other developments; it is our aim to ensure that your maternity leave does not put you at a disadvantage in relation to skills or other training needs
- providing you with the opportunity of indicating whether you wish to be considered for flexible working.

The interview will also provide an opportunity to discuss and explain any necessary and unavoidable changes to your work.

The opportunities for flexible working will depend on the needs of the business, but we recognise that many women will be interested in reducing their working hours or working at home for a while after their return from maternity leave. We will make every effort to accommodate requests for part-time working, provided that your duties can still be effectively carried out on such a basis. Any request for a contract variation should be made under the flexible working policy.

The following sets out the company's policy on maternity leave, maternity pay and all other issues relating to pregnancy and maternity.

The policy is designed to be as comprehensive as possible. However, if you have any queries which are not answered or if you have any other questions about the policy, please contact [*insert job title of person*].

TIME OFF FOR ANTE-NATAL CARE

You are entitled to take time off during your normal working hours to receive ante-natal care, although whenever it is possible to do so you should arrange your appointments at the start or end of your working day. Ante-natal care includes appointments with your GP, hospital clinics and relaxation classes. You may be required to produce an appointment card or some other document confirming all appointments other than the first. You should advise [*insert job title of person*] that you will be absent as far in advance of your appointment as possible.

There will be no deduction from your salary for attendance at authorised ante-natal appointments, including any time spent travelling to and waiting for the appointment.

ORDINARY MATERNITY LEAVE (OML)

You are entitled to take 26 weeks' ordinary maternity leave, irrespective of your length of service or the number of hours worked each week, provided you comply with certain notification requirements (see below).

ADDITIONAL MATERNITY LEAVE (AML)

If you qualify for ordinary maternity leave and have 26 weeks' service at the beginning of the 14th week before the expected week of the birth (EWC) of your child, you will be able to take an additional period of 26 weeks' maternity leave. This is in addition to and follows ordinary maternity leave.

(Note: for those with babies due on/after 1 April 2007 this should read: 'If you qualify for OML you will also qualify for the AML. This is a further 26 week period that starts the day after your OML ends.')

COMPULSORY MATERNITY LEAVE

Legislation prohibits you from returning to work during the two week period (four weeks if you work in a factory) immediately after the birth of your child.

WHEN DOES YOUR MATERNITY LEAVE START?

You can choose to start your maternity leave at any time after the start of the 11th week before the week in which your child is due, up until the birth of your child. The only exception to this is if you are absent from work wholly or partly because of your pregnancy at any time after the start of the fourth week before your child is due. In this case the company reserves the right to require you to start your maternity leave on the first day after your absence.

If you have properly notified the company (see below) of the date on which you wish to start your maternity leave, you may vary that date provided you notify in writing [*insert job title of person*] of the variation at least 28 days before the new date.

*(Note: for those with babies due on/after 1 April 2007 this should read: 'If you have properly notified the company (see below) of the date on which you wish to start your maternity leave, you may vary that date provided you notify in writing [*insert job title of person*] of the variation at last eight weeks before the new date'.)*

NOTIFICATION REQUIREMENTS

No later than the end of the 15th week before the EWC you must give notice in writing addressed to [*insert job title of person*]. That notice must state:

- whether you intend to take ordinary maternity leave and/or additional maternity leave (for those with the requisite length of service)
- when you want your maternity leave to start; this date cannot be earlier than the 11th week before the EWC
- that you are pregnant
- the week in which your child is due (note that for these purposes a week begins on a Sunday).

A form for this purpose can be obtained from [*insert job title of person*] (Form B-1).

You should enclose a Form MAT B1 signed by your GP or midwife with your letter which confirms the EWC.

As stated above, if you are absent from work wholly or partly because of pregnancy on the first day after the beginning of the fourth week before the EWC, your ordinary maternity leave will start the following day. As such, you do not need to notify [*insert job title of person*] that you intend maternity leave to start, but you will not be entitled to ordinary maternity leave unless you have notified [*insert job title of person*] as soon as is reasonably practicable that you are absent from work wholly or partly because of pregnancy and of the date on which your absence on that account began. Such notification must be in writing.

Similarly, if you give birth before your ordinary maternity leave has started, your ordinary maternity leave period will begin on the day that follows the day on which childbirth occurred. Again, in such circumstances you do not need to notify [*insert job title of person*] of the date on which you intend to start ordinary maternity leave, but you are not entitled to ordinary maternity leave unless you have notified [*insert job title of person*] as soon as is reasonably practicable after the birth that you have given birth and the date on which birth occurred. Such notification must be in writing.

If you notify [*insert job title of person*] of your intended start date or that your ordinary maternity leave period has been triggered due to premature absence or premature childbirth, we will notify you, in writing:

- of the date on which your ordinary maternity leave period will end
- if you are entitled to both ordinary maternity and additional maternity leave, of the date your additional maternity leave period will end.

(Note: for those with babies due on/after 1 April 2007 this should read: 'when your additional maternity leave will end'.)

The above notification will be given to you where we have been notified of:

- the intended start date, or that it has been triggered by premature absence or premature childbirth within 28 days from the date in which the company received the notification
- a variation, within 28 days of the date on which your ordinary maternity leave period commenced.

STILLBIRTH

The definition of childbirth is the birth of a child either living or dead, after 24 weeks of pregnancy. If you suffer a stillbirth after this time, you have the right to maternity leave.

RETURNING FROM MATERNITY LEAVE

You have the automatic right to come back to work following maternity leave and it is assumed that you will return unless you say otherwise. Although you are not required to give any formal notice of returning to work it helps us to plan for your return if you contact us in advance to discuss your return.

If you wish to return to work before your maternity leave has ended you must give us at least 28 days' notice of the date on which you intend to return.

(Note: for those with babies due on/after 1 April 2007 this should read: 'If you wish to return to work before your maternity leave has ended you must give us at least eight weeks' notice of the date on which you intend to return'.)

MATERNITY PAY

If you have at least 26 weeks' service at the start of the 15th week before your child is born you will normally be entitled to receive statutory maternity pay (SMP) whether or not you intend to return to work.

Maternity pay is payable at two rates for a maximum of 26 weeks. For the first six weeks of absence you will be paid at the higher rate of 90% of your salary. After this time you will be paid at the lower rate which is in force at the time (currently £108.85 per week).

(Note: for those with babies due on/after 1 April 2007 this should read: 'Maternity pay is payable at two rates for a maximum of 39 weeks. For the first six weeks of absence you will be paid at the higher rate of 90% of your salary. After this time you will be paid at the lower rate which is in force at the time (currently £108.85 per week).')

To be entitled to maternity pay, you must give 28 days' notice in writing of your absence on maternity grounds (as above). If you intend to take maternity leave you need only give the written notice as referred to above. Otherwise you should give separate notice, and [insert job title of person] can provide you with a form for that purpose.

Your maternity pay will be paid into your bank account on the same date that you would have received your salary and will be subject to the usual deductions for tax, National Insurance and pension contributions.

If you do not qualify for maternity pay you may be able to claim state maternity allowance. [Insert job title of person] will be able to advise you on how to claim this.

CONTRACTUAL BENEFITS

You will continue to receive your contractual benefits during your ordinary maternity leave period (apart from remuneration). However, during additional maternity leave [you will not receive contractual benefits/you will receive the following contractual benefits only [insert details of benefits]].

HOLIDAYS

While you are on ordinary maternity leave both your contractual holiday entitlement and your 20 days' statutory holiday entitlement under the Working Time Regulations continue to accrue. However, during

your additional maternity leave, only your statutory holiday entitlement continues to accrue – unless your contract specifically states that contractual holiday entitlement also continues to accrue.

MEDICAL INSURANCE

If you and, if applicable, your dependants are eligible for medical insurance, this will continue throughout your maternity leave period.

If you have covered your family at your own cost you may elect to continue such cover whilst on maternity leave if you make the appropriate contributions before taking maternity leave. If the contributions are not made the cover will automatically lapse.

If you wish to cover your new baby, you should register the baby with [*insert job title of person*] as soon as practicable.

LONG-TERM DISABILITY INSURANCE

If you are eligible for long-term disability insurance, this will continue throughout your maternity leave period.

GRIEVANCES RELATED TO MATERNITY RIGHTS

If you are dissatisfied with any decision made in respect of your maternity rights, you should instigate our formal grievance procedure as set out in the company policy.

HEALTH AND SAFETY

If you are employed in a position which has been identified as posing a risk to your health or that of your unborn child, you will be notified immediately, and arrangements will be made to eliminate that risk.

For this reason you are required to notify [*insert job title of person*] as soon as you are aware that you may be pregnant. Arrangements will then be made to alter your working conditions or, if this is not possible, you will be offered a suitable alternative job for the duration of your pregnancy.

If there is no alternative work we reserve the right to suspend you on full pay until you are no longer at risk.

These alternative arrangements may continue for six months after the birth of your child if you are still considered to be at risk.

If you have any concerns about your own health and safety at any time, you should consult [*insert job title of person*] immediately.

RETURNING TO WORK

If you return to work immediately after a period of ordinary maternity leave, you will return to work in the same job that you left before you started your maternity leave. If for health and safety reasons you were doing a different job from your usual one while you were pregnant, you may be required to return to that different job for a short time if you are still at risk when you return to work.

If you return to work from a period of additional maternity leave you will be entitled to return to the job in which you were employed before your absence or, if that is not reasonably practicable for the company, then return to another job which is both suitable and appropriate in the circumstances.

Your right to return means that you return on terms and conditions no less favourable than those that would have been applied if you had not been absent and with the same level of seniority, pension rights and other similar rights.

If annual salary reviews occur during your period of absence, you will be notified of your reviewed salary at this time. You will receive your reviewed salary upon your return to work.

If you decide not to return to work, then we would ask you to notify [*insert job title of person*] of your decision immediately. You must give notice in accordance with the terms of your contract. If you have received contractual maternity pay in excess of your statutory entitlement, you will have to repay this amount to the company upon termination of your contract.

If you cannot return to work because you are ill, you should notify [*insert job title of person*], who will advise you how much, if any, sick leave you are entitled to.

ADOPTION LEAVE POLICY

As soon as practicable after the notification that you will be adopting a child, arrangements will be made for you to meet with [*insert job title of person*]. This will be an informal interview, the purpose of which is to confirm that:

- your right to adoption leave and any additional leave is understood, including the requirements to give appropriate notices
- the right to return is explained, together with any potential opportunities for flexible working arrangements
- arrangements for time off are known, and any possible health and safety concerns are aired
- you know your entitlements to payment during adoption leave.

We recognise that orderly arrangements for cover during the period of adoption leave and also for enabling you to keep in touch with any developments at work are important for ensuring smooth transitions at each stage. Accordingly, prior to commencement of adoption leave, you will be informed of the arrangements for covering your work and also for providing you with opportunities to remain in contact whilst you are on leave.

As far as possible, such arrangements will be finalised in consultation with you. If you have staff reporting to you, you will be involved in all decisions relating to the temporary reporting arrangements to cover your adoption leave.

In addition, you will usually remain on circulation lists for internal memoranda and other documents, and will be included in invitations to work-related social events as though you were still at work.

We will try to ensure that adoption leave does not cause you any long-term disadvantage in relation to your training needs and self-development.

As you have a right to return to work in your old job, we will seek to avoid your being put into a position of potential redundancy whilst on adoption leave. In accordance with statutory requirements, where job losses are unavoidable you will be given first consideration for any suitable alternative employment that may arise.

At least two weeks before you are due to return to work, you will be invited for an informal meeting with [*insert job title of person*] in order to provide an opportunity for discussion of any material points concerning your return to work. These include:

- updating you on developments at work
- considering whether any retraining needs have arisen because of staleness or new technical or other developments; it is our aim to ensure that your adoption leave does not put you at a disadvantage in relation to skills or other training needs
- providing you with the opportunity of indicating whether you wish to be considered for flexible working arrangements
- providing you with an opportunity to discuss and explain any necessary and unavoidable changes to your work.

THE RIGHT TO ADOPTION LEAVE

Adoption leave and pay will be available to:

- individuals who adopt
- one member of a couple where the couple adopt jointly. In this case, the couple may choose which partner takes adoption leave.

QUALIFICATION

To qualify for adoption leave you must:

- be newly matched with a child for adoption by an approved adoption agency; this right will not therefore apply to, eg step-parents adopting a stepchild
- have been employed continuously by the company for 26 weeks leading into the week in which you are notified of being matched with a child for adoption.

LENGTH OF LEAVE

You are entitled to up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave (presuming you qualify for the leave), thus giving a maximum of 52 weeks' leave in total. Only one period of leave is available even if you are adopting more than one child.

If the child's placement ends during adoption leave, you will be able to take up to eight weeks' adoption leave after the end of the placement.

WHEN CAN ADOPTION LEAVE START?

Adoption leave can start:

- from the date of the child's placement (whether this is earlier or later than expected) or
- from a fixed date which can be up to 14 days before the expected date of placement.

ADOPTION PAY

The statutory scheme provides for 26 weeks' pay at £108.85 per week or 90% of your average weekly earnings if this is less than £108.85 per week.

(Note: for those adopting on/after 1 April 2007 this should read: 'The statutory scheme provides for 39 weeks' pay at £108.85 per week or 90% of your average weekly earnings if this is less than £108.85 per week'.)

NOTIFICATION

You are required to inform [*insert job title of person*] in writing of your intention to take adoption leave within seven days of being notified by your adoption agency that you have been matched with a child for adoption, unless this is not reasonably practicable. You will need to state:

- when the child is expected to be placed with you and
- when you want your adoption leave to start.

You will also have to provide us with a 'matching certificate' from the adoption agency.

You can change your mind about the date you want to start your adoption leave but will have to inform [*insert job title of person*] at least 28 days in advance, unless this is not reasonably practicable.

Once we receive your notice we will write to you within 28 days, setting out the date on which we expect you to return to work if the full entitlement to adoption leave is taken.

CONTRACTUAL BENEFITS

You will continue to receive your contractual benefits during your ordinary adoption leave period (apart from remuneration). However, during additional adoption leave [*you will not receive contractual benefits/you will receive the following contractual benefits only [insert details of benefits]*].

HOLIDAYS

While you are on ordinary adoption leave both your contractual holiday entitlement and your 20 days' statutory holiday entitlement under the Working Time Regulations continue to accrue. However, during your additional adoption leave only your statutory holiday entitlement continues to accrue – unless your contract specifically states that contractual holiday entitlement also continues to accrue.

RETURNING TO WORK

You have the right to return:

- with your seniority, pension rights and similar rights
- on terms and conditions no less favourable than those which would have applied if you had not been absent.

You will not be subject to any detriment by the company because you took or sought to take adoption leave.

If you wish to return to work before the end of your adoption leave period, you must give us at least 28 days' advance notice in writing.

(Note: for those adopting on/after 1 April 2007 this should read: 'If you wish to return to work before the end of your adoption leave period, you must give us at least eight weeks' advance notice in writing'.)

PATERNITY LEAVE AND PAY ON ADOPTION

You will be eligible for paternity leave and pay on the adoption of a child if you:

- have or expect to have the main responsibility for the child's upbringing
- are either married to or the partner of the child's adopter
- have worked continuously for the company for 26 weeks ending with the week in which the child's adopter is notified of having been matched with the child
- have given the correct notice and complied with any requirements to produce evidence.

LENGTH OF PATERNITY LEAVE

You can choose to take either one week or two consecutive weeks' leave (not occasional days or separate weeks) within 56 days beginning with the date on which the child is placed with the adopter, and can choose to start the leave:

- from the date on which the child is placed with the adopter
- on a chosen date falling a specified number of days after the date on which the child is placed with the adopter
- on a predetermined date that is later than the date on which the child is expected to be placed with the adopter.

PAY

During your paternity leave you will be entitled to statutory paternity pay (SPP) from the company. SPP will be at the rate which is in force from time to time – currently £108.85 per week.

NOTICE

You will be required to inform us of your intention to take adoption leave no more than seven days after the date on which the adopter is notified of having been matched with the child, or, if that is not reasonably practicable, as soon as is reasonably practicable. You will need to specify:

- the date on which the adopter was notified of having been matched with the child
- the date on which the child is expected to be placed with the adopter
- whether you wish to take one or two weeks' leave
- when you want the leave to start.

You must inform us, in writing, as soon as is reasonably practicable after the child's placement of the date on which the child was placed.

You are required to give (at least 28 days before the date from which it is expected that liability to pay SPP will begin) [*insert job title of person*] a signed declaration to the effect that you wish to take adoption leave to care for a child or support the child's adopter and that you satisfy the eligibility criteria as set out at the beginning of this policy. You must confirm, in writing:

- the name of the person claiming SPP
- the date on which the child is expected to be placed for adoption (or, where the child has already been placed for adoption, the date of placement of the child)
- the date from which it is expected that the liability to pay SPP will begin
- whether the period chosen in respect of which SPP is to be payable is a week
- the date the adopter was notified he or she had been matched with the child for the purposes for adoption.

If you have given notice of your intentions to take adoption leave and wish to change the date on which you wish to begin your adoption leave, you must give us written notice 28 days before the new period of leave is due to start.

CONTRACTUAL BENEFITS

You are entitled to the benefit of your normal terms and conditions of employment, except for terms relating to wages or salary (unless the contract of employment provides otherwise) throughout your ordinary adoption leave. You may, however, be entitled to SAP for the ordinary adoption leave period.

You will continue to remain bound by any obligations arising under your contract of employment.

RETURN TO WORK AFTER PATERNITY LEAVE

You have the right to return:

- with your seniority, pension rights and similar rights
- on terms and conditions not less favourable than those which would have applied if you had not been absent.

You will not be subject to any detriment by the company because you took or sought to take paternity leave.

For further details on paternity leave, please refer to the company's paternity leave policy.

PATERNITY LEAVE POLICY

You will be eligible for paternity leave and pay if you:

- are the father of the child or the mother's husband or partner (including same-sex partner)
- have worked for the employer for a minimum of 26 weeks by the 'notification week' (ie the end of the 15th week before the expected week of childbirth (EWC)) or, for adoption paternity leave, by the end of the week in which the child's adopter is notified of matching

- have or expect to have responsibility for the upbringing of the child if you are the father or expect to have the main responsibility for the upbringing of the child if you are the mother's husband or partner but not the child's father
- have given the correct notice.

Paternity leave is also available to the partner of an adopter, whether male or female.

LENGTH OF PATERNITY LEAVE

You can choose to take either one week or two consecutive weeks' paternity leave (not occasional days or separate weeks) and you can choose to start your leave:

- from the date of the child's birth (whether this is earlier or later than expected) or
- on a chosen day after the date of the child's birth (whether this is earlier or later than expected) or
- from a chosen date which is later than the first day of the EWC.

Paternity leave must be taken:

- if the child is born before the EWC
- within 56 days of that date or
- within 56 days of the actual date of birth of the child.

Only one period of leave will be available to you even if more than one child is born as the result of the same pregnancy.

PAY

During your paternity leave you may be entitled to statutory paternity pay (SPP) from the company. SPP will be at the rate which is in force from time to time – currently £108.85 per week.

NOTICE

You are required to inform us of your intention to take paternity leave in or before the 15th week before the EWC, unless this is not reasonably practicable. You will need to tell [*insert job title of person*] in writing:

- the week the baby is expected
- whether you wish to take one or two weeks' leave
- when you want the leave to start.

You must inform us, in writing, as soon as is reasonably practicable after the child's birth, of the date on which the child was born.

You may be required to give [*insert job title of person*] a signed declaration that you wish to take paternity leave to care for a child or support the child's mother and that you satisfy the eligibility criteria as set out at the beginning of this policy.

If you have given notice of your intentions to take paternity leave and wish to change the date on which you wish to begin your paternity leave, you must give us written notice 28 days before the new period of leave is due to start.

CONTRACTUAL BENEFITS

You are entitled to the benefit of your normal terms and conditions of employment, except for terms relating to wages or salary (unless the contract of employment provides otherwise) throughout your paternity leave. You may however be entitled to SPP for this period.

You will continue to remain bound by any obligations arising under your contract of employment.

RETURN TO WORK AFTER PATERNITY LEAVE

You are entitled to return to the same job following no more than two weeks' paternity leave.

If, however, you take two or more consecutive periods of statutory leave (which could include additional adoption leave or parental leave of more than four weeks), you will be entitled to return to the job in which you were employed before your absence or, if that is not reasonably practicable for the company, then to return to another job which is both suitable and appropriate in the circumstances.

You have the right to return:

- with your seniority, pension rights and similar rights
- on terms and conditions not less favourable than those which would have applied if you had not been absent.

You will not be subject to any detriment by the company because you took or sought to take paternity leave.

PARENTAL LEAVE POLICY

You are entitled to unpaid parental leave of a maximum of 13 weeks for each child. You also have the right to return to the same job or (if more than four weeks' leave are taken) to a similar job with the same or better terms and conditions.

If you have been in our employment continuously for one year you are entitled to parental leave provided you expect to have responsibility (ie parental responsibility) for a child. The leave must generally be taken before the child's fifth birthday. Therefore, the child must be under five years old or, if disabled, less than 18 years old. Parental leave has been extended from 13 weeks to 18 weeks for parents of disabled children.

[NEXT PAGE IS 15/27]

Both natural and adoptive parents may exercise these rights.

BEFORE TAKING PARENTAL LEAVE

As soon as practicable after you have notified us that you intend to take parental leave, arrangements will be made for you to meet with [*insert job title of person*]. This will be an informal interview, the purpose of which is to confirm that:

- you understand your rights to parental leave and the requirements to give appropriate notices (see below)
- the right to return to work is explained, together with any potential opportunities for flexible working
- arrangements for time off are known, and any possible health and safety concerns are aired
- you know that the leave from work is unpaid.

NOTICE

Once you have given us notice of your intention to take parental leave, you must comply with any request made by us to produce for our inspection evidence of your entitlement. Leave must be taken in blocks of one week. However, if the child qualifies for a disability living allowance, the leave can be taken as single days or multiples of a day.

The notice given to us must specify your intention to take parental leave and the dates on which the period of leave is to begin and end.

Notice must be given 21 days before the date on which the leave is to begin. You may not take more than four weeks' leave in respect of an individual child during a particular year.

If the operation of the business will be unduly disrupted by the parental leave, it may be postponed if absolutely necessary.

You are not entitled to parental leave unless you have complied with the request by us to produce evidence of your entitlement. In certain circumstances, we are entitled to postpone a period of parental leave.

The types of evidence that we may request is such evidence that shows:

- your responsibility or expected responsibility for the child in respect of whom you propose to take parental leave
- the child's date of birth, or in the case of a child who was placed with you for adoption, the date on which the placement began, and
- in the case where your entitlement depends on whether the child is entitled to disability living allowance (ie after the child's fifth birthday or for a period less than a week), the child's entitlement to that allowance.

No request will be made by us unless it is reasonable.

DURING PARENTAL LEAVE

Arrangements will be made for cover of your workload, and you will be kept in touch with any important work developments. In addition, we will ensure that you remain on circulation lists for internal memoranda and will be included in invitations to work-related social events as though you were still at work.

We will try to ensure that parental leave does not cause any long-term disadvantage to you concerning your training needs and self-development.

You are bound during the parental leave period by your implied obligation to the company of good faith and specific terms relating to notice, disclosure of confidential information, acceptance of gifts and whether you are participating in any other business. The disciplinary and grievance procedures continue to apply, as does any entitlement to compensation for redundancy.

RETURNING TO WORK

If the period of leave is four weeks or less, you essentially have the right to return to the same job. If the period is for more than four weeks (because it followed on from other statutory leave), then the right is to return to the same job or, if that is not practicable, to a similar job which has the same or better status, terms and conditions as the old job.

If you are entitled to return to the same job, then it means a right to return with the seniority, pension rights and similar rights, and on terms and conditions not less favourable than those which would have been applied if you had not been absent.

You will not be subjected to any detriment by the company for taking or requesting parental leave.

FLEXIBLE WORKING POLICY

If you have 26 weeks' service you are entitled to request a change to your contract terms during the first five years of your child's life (or first 18 years if the child is disabled). If you wish to request flexible working you should follow this policy.

The opportunities for flexible working will depend on the needs of the business, but we recognise that you may be interested in reducing working hours, working at home or changing your working pattern owing to family commitments. We will make every effort to accommodate requests for flexible working, provided that your duties can still be effectively carried out on such a basis.

Where the demands of the post require full-time cover, for example because of its managerial content or because of a heavy workload, then it may still be possible for two suitably matched and qualified people to carry out the duties on a job-share basis. We will not reject any requests for flexible working without first considering whether arrangements can be made to accommodate them. If you change to working on a part-time or job-share basis or change your work location to working at home, you will be offered appropriately adjusted contracts of employment containing your new terms and conditions. Your continuity of employment and all related rights will be preserved.

Where a job-share arrangement which is acceptable to the job-sharers' manager cannot immediately be identified, you will nevertheless be encouraged to return to work full-time and will be offered a job-share in a suitable post as soon as one becomes available.

ELIGIBILITY

To be eligible to make a request, you must:

- have worked for the company continuously for 26 weeks at the date the application is made
- make the application no later than two weeks before the child's sixth birthday, or 18th birthday in the case of a disabled child
- have or expect to have responsibility for the child's upbringing
- be making the application to enable you to care for the child
- not be an agency worker
- not have made another application to work flexibly under the right during the previous 12 months.

SCOPE

If you are eligible you will be able to request:

- a change to the hours you work
- a change to the times when you are required to work
- to work from home.

Applications for a change in working pattern will not always require a significant alteration. For example, you may simply wish to start work half an hour later to take your child to school and make up the time later in the day.

PROCEDURE

The procedure you need to adopt is as follows:

You must make an initial application in writing stating:

- whether a previous application has been made and, if so, when
- that it is an application under Section 80F Employment Rights Act 1996 (ERA)
- the change applied for and the date it is proposed the change should become effective
- the effect you think the change will have on the company and how any such effect might be dealt with
- how you meet the conditions as to the relationship of the child that are required
- the date.

On receipt of the application, a meeting will be arranged with you and [*insert job title of person*] within 28 days to discuss the request. This will provide both you and the company with the opportunity to explore the desired work pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider alternative working patterns should there be problems in accommodating the desired work pattern outlined in your application. You will, if you so wish, be able to bring a work colleague to the meeting. If we cannot accommodate the request, we will explain why in writing to you, relying on one or more of the following reasons:

- the burden of additional costs
- a detrimental effect on our ability to meet customer demand
- inability to reorganise work among existing staff
- inability to recruit additional staff
- a detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes.

Should more time be required to make a decision, then we will give a timescale which we think is reasonable.

If you are not happy with the outcome of the meeting, then you can make an appeal to [*insert job title*] within 14 days of being notified. The appeal process is designed to be in keeping with the overall aim of reaching a satisfactory outcome at the workplace.

We will, within 14 days of receiving your appeal, convene a further meeting to discuss the matter. You will be entitled to bring a work colleague to the appeal meeting.

Within 14 days of the appeal, we will inform you in writing of our final decision.

