

Antenatal appointments - how to avoid getting it wrong

Anne Sammon considers the important points for employers to note when dealing with requests for time off for antenatal care.

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The Equality and Human Rights Commission (EHRC) has published a report on the prevalence and nature of pregnancy discrimination and disadvantage in the workplace. One of the findings of this report was that 10% of mothers interviewed by the EHRC for the report said their employer had discouraged them from attending antenatal appointments.

The right to attend antenatal appointments - mothers

Pregnant employees and agency workers are entitled to paid time off to receive antenatal care. Where an employer unreasonably refuses to allow the employee/agency worker to take this time off, the employee/agency worker may bring an employment tribunal claim. In addition, if time off is refused or there is any detriment arising from the employee/agency worker having exercised the right to time off, this is likely to amount to unlawful pregnancy discrimination. So, how should employers deal with requests for time off for antenatal care?

There is no definition of the term "antenatal care". Medical appointments clearly fall within scope, however it is less clear whether, for example, antenatal classes would fall within this. BIS guidance suggests that these would where they are recommended by a healthcare professional. Whilst there have been some first instance decisions where parent craft classes have been held not to be covered by the legislation even where the employee's attendance at the class was recommended by her midwife, there would seem to be some risk attached to this approach - particularly if such classes take place towards the end of the working day (as they often do) and therefore involve only minor disruption to the employee's working day.

There is also no guidance on when it might be reasonable to refuse to allow an employee/agency worker to attend an appointment for antenatal care. This is likely to depend on the nature of the appointment, the duration of the appointment and the disruption caused to the employer, as well as how much notice of the appointment the employer has been given. An employment tribunal would seem to be likely to be more sympathetic to an employer that refuses to allow an employee to attend a parent craft class lasting a couple of hours in the middle of the working day, than to an employer that refuses to allow an employee attending an anomaly scan lasting the same duration.

How can employers avoid getting it wrong?

Communication is a key aspect to avoiding issues with antenatal appointments. Having a conversation at the beginning

of the employee's pregnancy to explain what is expected in relation to antenatal appointments will help to avoid issues later on.

This conversation might include:

- whom the employee has to notify if she is going to attend an appointment
- whether the employee has to record the absence in any particular way, and
- how much notice should be given of the appointment (where possible).

As a minimum though, the conversation should confirm that the employee is able to take a reasonable amount of time off for these appointments and that she will not be subject to any detriment as a result.

Often the types of discussions described above take place between managers and employees, rather than directly with HR. As such, it is important that all managers are aware of the right to take time off for antenatal appointments.

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