

FACTSHEET



EMPLOYMENT ISSUES

The Fertility Network UK is often approached by both employees and employers with concerns about time off for fertility treatments, additional support during the process and what, if any, reasonable adjustments to duties and responsibilities may be requested. The Fertility Network UK are also asked to provide information to help employers understand the issues faced by those affected by infertility. This factsheet was compiled as a direct result of that.

Infertility is a medical condition which affects one in six couples. In the UK alone, around three and a half million people are currently suffering from some kind of fertility problem. Infertility has a wide range of causes, and there are many different treatments ranging from drug therapy to assisted conception.

In the UK, employees have a right to absences for pre-natal and for post-natal care and the right to request flexible working but pre-conception care is not a statutory right, so relatively few work environments have formal policies in place to support people having treatment. Recent research (Payne et al., 2014a, b, 2016) using in depth interviews found that women and men having treatment experience conflict between the demands of work and the time and emotional demands of treatment. Workplace support and job flexibility were found to be crucial for managing this conflict but experiences of support varied considerably and people also had concerns about having to disclose to request support.

It is common for couples to have concerns about telling their employers they are having fertility treatment, and there are many reasons for this. Sometimes they are worried that:

- employers will not take their infertility seriously
- confidentiality may be breached
- letting their employers know they are having fertility treatment will adversely affect their career prospects.

Couples undergoing fertility tests or any form of treatment will have to attend a fertility clinic. Investigations to discover the cause of the problem are often drawn out over many months or even years, and although some clinics try to arrange appointment times to suit their patients, many others cannot do this.

An employee may need to take some time off during their normal working hours to visit the clinic. The amount of time an employee is away from work will depend on the nature of the tests and treatments as well as the distance between their clinic and place of work and the timing of their appointments. If an employer can allow some degree of flexibility in the working day when an

employee needs to attend the clinic, this will not only make the whole process much easier but often has wider benefits for employee relations across the board.

There are a number of different types of assisted conception, one of the best known of which is IVF or in-vitro fertilisation. During this kind of treatment, female patients have to attend their clinic on a regular basis over a period of a few weeks. Some of these appointments can be fitted in around work, particularly if an employer can allow a degree of flexibility, but there will be some days in the treatment cycle when it is simply not possible for a patient to work, particularly after egg collection which will involve a local or general anesthetic or heavy sedation.

Assisted conception can throw up complications along the way, and individuals react to the treatment in different ways. Although some patients who have sympathetic employers manage to work through much of the cycle taking just a few days off, many others need additional time.

The emotional impact of infertility cannot be underestimated, and going through tests and treatment is often a deeply traumatic process. *A study carried out for the Fertility Network UK by Middlesex University, London, in May 2016, on "The impact of fertility problems" questioned more than 865 patients about their experiences. The results highlighted worries about treatment including its uncertainty, funding, waiting times and the impact of treatment on work. The survey asked about the difficulties experienced by respondents in combining treatment with work. Of those respondents who worked at the start of treatment, 80% worked full-time, 13% part-time and 7% were self-employed. 13% of respondents reduced their hours and 6% left their job due to treatment. 58% of respondents reported work affected their treatment (e.g. it was difficult to make appointments) and 85% reported treatment affected their work (e.g. it was difficult to concentrate). 50% were concerned it would affect their career prospects and 35% felt it did actually affect their career. These concerns about work and career increased with more cycles of treatment and were all related to greater levels of distress. Yet only one quarter of respondents reported the existence of supportive workplace policy and less than half received really good support from their employer. Where policy was reported, it sometimes specified 5 days of leave, but half of the respondents needed more than 5 days and the average number of days off per cycle was 9.*

In terms of disclosure to their employer at work, 72% disclosed to their employer; 41% received a great deal of support and 49% received a bit of support. Those who disclosed had more days off and those who received more employer support reported lower levels of distress. 59% of respondents felt their employer would benefit from education/support to help them better understand the needs of someone having treatment.

In terms of respondents taking time off work, the average number of days taken off work during a treatment cycle was 8.74. 50% of respondents took up to a week off work, 24% took up to two weeks, 15% took up to three weeks, 4% took a month and 7% took more than this and in some cases up to several months. Taking more days off was associated with greater distress. Time off work for treatment was managed in various ways, with annual leave and sick leave being most commonly used. 'Other' methods include using specific IVF policy, special leave, swapping shifts, being self-employed or working part-time and quitting work.

An employee's rights

There is no automatic legal right to time off for infertility treatment but time off for medical appointments related to fertility should be treated in the same way as any other medical appointment under your employer's policy.

If your employer refuses time off for such treatment you may be able to bring an Employment Tribunal claim for indirect sex discrimination. Some people may require additional time off to recover from the effects of medical procedures and drug treatment and need to take sick leave. Sick absence related to treatment for infertility will be covered by your employer's sickness absence scheme but any such absence should not count towards warnings or negative consequences.

Women who have had fertilised eggs implanted in their womb as part of IVF treatment will be regarded legally as being pregnant from the date of the implant and are protected from adverse treatment or dismissal under pregnancy legislation but it is important that you notify your employer that you have reached this stage in your treatment.

It is important that you keep your employer informed about ongoing treatment for infertility and reasons for absence but this does not give your employer the right to ask intrusive questions.

An understanding employer can make all the difference to an employee during fertility treatment. The more flexibility you are able to offer, the less disruption there will be. Many companies now recognise this, and are allowing their employees time off for fertility treatment. Some offer unlimited leave, whilst others give a set number of days with the option of additional unpaid leave and flexible working. Those who have adopted such policies say employees have responded very positively and responsibly. They have found it generates goodwill which helps foster a happy workforce, and this in turn improves productivity and builds good customer relations.

The public service union UNISON has recognised that employees undergoing investigations and treatment for infertility are often left with no choice but to take either sick leave or annual leave to cover the period of their absence. This is despite the worldwide recognition of infertility as a 'disease of the reproductive system', defined as such by the World Health Organisation, the National Institute for Health and Care Excellence (NICE) and the National Group on Infertility commissioned by the Scottish Government.

Fertility Network Scotland has worked with UNISON to implement a fertility policy to ensure that those requiring investigations and treatment for infertility are protected from workplace discrimination and are subject to the same rules as other employees who wish to take medical leave. All 32 local authorities in Scotland have now adopted this policy.

Here are some examples of employers who have a policy on fertility treatments:-

- Bristol City Council offers paid time off for fertility treatment granted to both partners (including same sex partners) to attend one programme of treatment.
- ASDA allows up to three periods of paid leave for IVF, with five days for women and one day for men, along with the option of swapping shifts to fit around appointments and additional unpaid leave if necessary.
- Tesco offers time off with contractual pay to employees undergoing treatment up to a maximum of one working week (pro-rata for part time). This time can be granted for one working week per treatment cycle up to a maximum of three times in an individual's employment with Tesco. The company also offer support to employees who are partners of someone undergoing treatment - a maximum of 2 days per treatment cycle, if their attendance is required.
- London & Quadrant Housing give unlimited paid time off for fertility treatment - they say that staff are very careful not to abuse this, and most only take a few days when they are having their treatment.
- The University of Dundee allow up to 5 days paid leave in any academic year for investigations or treatment. A maximum of 10 days overall will be available to individual members of staff. To be eligible for leave for fertility treatment, staff must have been continuously employed by the University for at least one year.
- Glasgow Kelvin College recognises that fertility treatment is a stressful and emotionally demanding experience. Employees may need additional support during the process and reasonable adjustments to their duties and responsibilities. An employee may need to take some time off during their normal working hours for appointments. Medical appointments, where possible, should be out with normal working hours but where this is impracticable, reasonable leave with pay will be granted.
- The Open University - students who are undergoing *in-vitro* fertilisation (IVF) treatment, or whose partner is undergoing treatment, may need additional support due to:
 - the impact of medical treatment
 - other caring responsibilities
 - related medical appointments

The key really is FLEXIBILITY

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