

# Managing your employee's paternity leave and pay

By law, your employee must tell you the following information no later than 15 weeks before the date the baby is due:

- that they're expecting a child
- how much [paternity leave](#) they plan to take – by law they can take up to 2 weeks
- the date they want to start their leave

Your employee may have a good reason to not give this information within the 15-week notice period. For example, they may not know their partner is pregnant until late in the pregnancy. In these cases they must give you the information as soon as they can.

## 1. How you must respond

If your employee is asking for [paternity pay](#), you must respond in writing.

If they're not asking for paternity pay, you do not have to respond in writing. But it's still a good idea to confirm in writing that you've received the date and length of their leave.

An employee may have the right to paternity leave and pay if either of the following apply:

- they're the biological father of the child
- their partner's having a baby, [adopting](#) a child or having a child through [surrogacy](#)

More than one person might ask for paternity leave for the same baby. For example, a baby's stepfather and biological father may both ask for paternity leave, if they'll both provide significant care for the child.

It's a good idea for your workplace to have a paternity policy that all staff can easily access, for example on an intranet or in a handbook, so that everyone knows their rights.

## 2. Paternity leave

By law, the employee can choose to take either 1 or 2 weeks' paternity leave.

If they take 2 weeks, these must be taken in one go.

Some workplaces offer more paternity leave. Check the employment contract if you're not sure.

By law you must not treat an employee unfairly for taking, or planning to take, paternity leave.

### Choosing when the employee can start paternity leave

The employee can choose to start paternity leave on the day of the birth or afterwards.

As the baby could arrive early or late, you should:

- be flexible about when they start their leave
- make appropriate arrangements for their absence, such as arranging paternity cover

They cannot start paternity leave before the birth, but they could take another type of leave, depending on their employment contract and if you agree. For example, they could take [holiday](#).

### **Starting leave after the birth**

They can choose to start their paternity leave either:

- on a specific date
- after a certain number of days, for example 2 days after the birth

### **If the baby arrives early**

If the baby arrives early, paternity leave and pay starts the day after the baby arrives.

There might be circumstances where your employee wants to start their leave later. So it's a good idea to be flexible about the start date.

Your employee must tell you of the new date they want to start leave. This does not have to be in writing unless you request it.

Your employee or someone close to them should tell you about the birth as soon as possible. Some workplaces have a policy about who must provide this information, and when.

If the baby's arrival is unexpected or traumatic you might be told about it from someone other than the employee, such as a family member. Even if your workplace has a policy about who should contact you, it's a good idea to be flexible and understanding in these circumstances.

### **If the baby arrives late**

If the baby arrives late, your employee must tell you of the new date they're starting their paternity leave as soon as they can. This does not have to be in writing unless you request it.

If your employee wants to take time off before the birth, they could take another type of leave. For example, they could take holiday. Both you and the employee would need to agree this.

### **When their paternity leave must end**

The employee must have taken all their paternity leave by the 56th day after the birth.

## **Paternity pay**

The employee might have the right to [paternity pay](#).

## **Adoption**

If they're adopting:

- one partner might be eligible for [adoption leave](#)
- the other partner might be eligible for paternity leave

Paternity leave can start:

- on the date of the adoption placement
- up to 56 days after the placement of the child (the employer and employee should agree the date together)
- for overseas adoptions, on the date the child arrives in the UK or an agreed number of days after

## Surrogacy

If they're using surrogacy, paternity leave starts on the day of the birth or the day after. They do not have to provide [proof they're using surrogacy](#) unless you ask for it.

## Shared Parental Leave

An employee could choose to take Shared Parental Leave (SPL), if they're eligible.

If they choose to take SPL, it must be taken after paternity leave.

[Find out more about Shared Parental Leave.](#)

## Holiday leave

During paternity leave, the employee will build up ('accrue') paid holiday including bank holidays. Paid holiday is also known as statutory annual leave.

Holiday leave and paternity leave cannot be taken at the same time.

It's a good idea to:

- discuss with your employee whether they'll take their holiday leave before or after their paternity leave
- keep an up-to-date note or other record of what's agreed

[Find out more about holiday leave.](#)

## If there's a miscarriage, stillbirth or the baby dies soon after birth

The employee still has their paternity rights if:

- the baby is stillborn after the 24th week of pregnancy
- the baby dies soon after birth

If the employee is eligible for [parental bereavement leave and pay](#), they have the right to take this after they finish their paternity leave.

You should be as understanding and supportive as possible in these circumstances.

If you need to discuss work-related matters with the employee, you could arrange with someone else (such as their friend or family member):

- when this communication happens
- how it happens, for example whether any urgent communication can be emailed to a friend or family member

To support your employee, you could also offer more time off or a phased return to work.

## Agency workers

There are [different paternity rights for agency workers](#).

Related content

[/managing-your-employees-maternity-leave-and-pay](#)

An employee's paternity pay:

- starts when paternity leave starts
- lasts for as long as their paternity leave – the legal entitlement is no more than 2 weeks, some workplaces offer more

The employee's contract should state how much paternity pay they get.

Pay set out in the employment contract is known as 'enhanced' or 'contractual' paternity pay, if it's above the legal minimum for paternity pay. The legal minimum is known as Statutory Paternity Pay (SPP).

Offering enhanced paternity pay can help your business attract and keep the best employees.

## 3. The legal minimum for paternity pay

If your workplace does not offer enhanced paternity pay, you must pay the employee whichever of these is lower:

- 90% of their average weekly earnings
- SPP – currently £151.20 a week

### Eligibility

An employee is eligible for SPP if they're employed at the time of the birth. By the 15th week before the baby is due, they must also:

- have worked continuously for the business for at least 26 weeks
- earn on average at least £120 a week

If an employer offers enhanced paternity pay, this must always be higher than SPP.

### Notice when claiming Statutory Paternity Pay

There's a 15-week notice period to claim SPP for paternity.

An employee may have a good reason to give less notice than they're supposed to. For example, a father may not be aware of a pregnancy until a late stage. In these situations they should give you as much notice as they reasonably can.

An employee can use forms for telling you they want to claim leave or pay for paternity. [Find HMRC's forms on GOV.UK.](#)

### **If they're adopting and claiming Statutory Paternity Pay**

Find out about the [rules on SPP eligibility and notice if your employee is adopting.](#)

### **Calculating Statutory Paternity Pay**

You can use the [paternity pay calculator on GOV.UK.](#)

### **If they're not eligible for Statutory Paternity Pay**

You can refuse SPP if your employee does not qualify. To do, this send them [form SPP1 from GOV.UK](#) within 28 days of their pay request. You must keep a copy.

Your employee can ask you to explain your decision in writing. If they do, you must provide the decision within a reasonable time, for example 7 working days.

## **If the employee does not return to work after paternity leave**

The employee does not have to repay SPP if they do not return to work after paternity leave.

The employee must repay any enhanced paternity pay they've taken, if their [written terms](#) ('written statement of employment particulars') say so.

The written terms must be clear about the circumstances when enhanced paternity pay will be repaid. Before you start paying this money to the employee, you should also remind them of any repayment conditions.

Related content

[/managing-your-employees-maternity-leave-and-pay](#)

An employee who's adopting may be eligible for Statutory Paternity Pay (SPP).

To get SPP, your employee must have worked for the same employer for 26 weeks before:

- the end of the week they're told they've been matched with a child, for adoption in the UK
- the date the child enters the UK, for overseas' adoption

They must take their paternity leave and pay within 56 days of:

- the placement date, for UK adoptions
- the date the child enters the UK, for overseas adoptions

Their SPP should continue while it was due if the adoption placement does not work out ('disrupted placement'), for example:

- the placement does not go ahead
- the child has to return to the agency
- the child dies

[Find out more about paternity pay.](#)

## 4. Notice when claiming Statutory Paternity Pay for adoption

To claim SPP, the employee must tell you of the adoption no more than 7 days after the date they're told they're matched with a child.

If they have a good reason not to give you the appropriate notice, they must give it as soon as they reasonably can.

Employees can use HMRC's forms to tell you they want to claim leave or pay for adoption. They can [find HMRC's forms on GOV.UK](#).

Related content

[/your-adoption-leave-pay-and-other-rights](#)

The partner of someone who's pregnant has the right to time off work to attend 2 pregnancy-related ('antenatal') appointments.

This time off is unpaid unless the employment contract says otherwise.

If your employee does not want to take unpaid time off, they could ask to take it as holiday or make up the hours later. Both you and the employee would need to agree this.

It's a good idea for you to be flexible and understanding towards an employee's circumstances, for example you could:

- offer them paid time off if possible
- be aware they may need more time off, as some pregnancies can be difficult

## 5. How much time they can take

They have the legal right to take up to 6.5 hours per antenatal appointment. This time includes travel to and from the appointment.

## Surrogacy

By law, an employee can take unpaid time off for 2 antenatal appointments if they're using surrogacy and will become the child's legal parent once it's born.

## Adoption

By law:

- the main adopter is entitled to paid time off for 5 adoption appointments
- the secondary adopter is entitled to take unpaid time off for 2 appointments

Some employment contracts might allow for more, or paid, time off for these appointments.

Related content

</managing-your-employees-maternity-leave-and-pay>

Before paternity leave starts, you and the employee should arrange together the best way to:

- keep in touch about important changes or news at work
- plan how work will be covered while they're on leave

This includes arranging how you'll keep in touch, for example by email.

By law you must tell them about:

- promotion or other job opportunities
- redundancies
- any reorganisation that could affect their job

You could also tell them about:

- social events
- colleagues who are leaving or joining
- arrangements for their return to work

It's a good idea to:

- let the employee decide how much or little contact they want, unless the contact is about things you must tell them about
- remind them they do not have to do any work during paternity leave

Related content

</managing-your-employees-maternity-leave-and-pay>

When the employee returns to work, the job and its terms must remain the same.

## 6. Changing how they work

Once their new baby has arrived, the employee might want to change the way they work, for example their working hours.

They might be able to make a flexible working request. [Find out about flexible working requests and the eligibility requirements.](#)

## Time off for emergencies

Employees have the legal right to reasonable time off to look after a dependant, such as a child or partner. What's 'reasonable' depends on the situation and circumstances involved.

The employee should tell you as soon as possible:

- the reason for the absence
- how much time they'll need

This time off is without pay, unless the employee's contract says otherwise.

Related content

</managing-your-employees-maternity-leave-and-pay>

If an employee is unhappy about how your workplace has dealt with their paternity leave, pay or other rights, they can raise the issue with you.

You should try to resolve the issue informally first.

If that does not resolve the issue, the employee can [raise a formal complaint](#) ('grievance').

Related content

[/managing-your-employees-maternity-leave-and-pay](#)