

Section 7. Absence – Paternity Leave

Up to date as of 9th February 2024

Entitlement

Employees may be [eligible for Statutory Paternity Leave and Pay](#) if they and their partner are:

- having a baby
- adopting a child

 having a baby through a surrogacy arrangement

This guide is also available [in Welsh \(Cymraeg\)](#).

Statutory Paternity Leave

Employees can choose to take either 1 week or 2 consecutive weeks' leave. The amount of time is the same even if they have more than one child (for example twins).

Leave cannot start before the birth. The start date must be one of the following:

- the actual date of birth
- an agreed number of days after the birth
- an agreed number of days after the expected week of childbirth

Leave must finish within 56 days of the birth (or due date if the baby is early). The start and end dates are different [if the employee is adopting](#).

Statutory Paternity Pay

Statutory Paternity Pay for eligible employees is either £172.48 a week or 90% of their average weekly earnings (whichever is lower). Tax and National Insurance need to be deducted.

Calculate an employee's paternity leave and pay using the [maternity and paternity calculator](#).

Some employment types, like agency workers, directors and educational workers, have [different rules for entitlement](#).

Extra leave or pay

Employees can get more leave or pay if:

- their partner returns to work and they qualify for [Shared Parental Leave and Pay](#)

We must make sure our paternity leave and pay policies are clear and easily accessible to staff.

Leave for antenatal appointments

Employees can take unpaid leave to [accompany a pregnant woman to antenatal appointments](#) if they are:

- the baby's father
- the expectant mother's spouse or civil partner
- in a long term relationship with the expectant mother
- the intended parent (if they're having a baby through a surrogacy arrangement)

They can accompany the woman to 2 appointments of up to 6 and a half hours each.

If the baby dies

Employees still qualify for paternity leave and pay if the baby is either:

- stillborn from 24 weeks of pregnancy
- born alive at any point in the pregnancy but later dies

Employment rights

An employee's [employment rights](#) (like the right to pay, holidays and returning to a job) are protected during paternity leave. We still have to pay Statutory Paternity Pay even if we stop trading.

Eligibility

Employees must be one of the following, the:

- father
- husband or partner of the mother (or adopter)
- child's adopter
- intended parent (if they're having a baby through a surrogacy arrangement)

Employees must also:

- be [classed as an employee](#) (paternity leave only)
- be employed by us up to the date the child is born (or placed with the adopter) (paternity pay only)
- be on our payroll and earn at least £123 a week (gross) in an 8 week 'relevant period' (paternity pay only)
- give us the [correct notice](#)

- be taking time off to look after the child or their partner
- be responsible for the child's upbringing
- have been continuously employed by us for at least 26 weeks up to any day in the 'qualifying week'

If our employee usually earns an average of £123 or more a week, and they only earned less in some weeks because they were paid but not working ('on furlough') under the Coronavirus Job Retention Scheme, they may still be eligible.

The qualifying week is the 15th week before the baby is due. This is different if the employee is adopting.

Use the [paternity pay calculator](#) to check an employee's eligibility and work out their relevant period, notice period and paternity pay.

There are special rules for some employee situations, for example if they leave or become sick.

If the child is born early

If the child is born early, the employee is still eligible if they would have worked for us continuously for at least 26 weeks by the qualifying week.

For very premature births where the child is born 15 weeks before the due date, we'll need to calculate paternity pay through the payroll by the accountants.

Employees in surrogacy arrangements

Parents intending to have a child through a surrogacy arrangement may be eligible for Statutory Paternity Pay and Leave.

If we ask, they must give us a written statement to confirm that they've applied or intend to apply for a parental order in the 6 months after the baby's birth.

Notice period

The notice periods and forms are different if the employee is adopting.

Statutory Paternity Leave

Employees must tell us at least 15 weeks before the week the baby is expected:

- the baby's due date

- when they want their leave to start - they can change this with 28 days' notice
- how much leave they want

Notice does not have to be in writing unless we request it.

Employees can ask for leave and pay in writing using [the online form](#). This replaces form SC3. Employees will need to download or print the form after completing it and give us a copy.

Statutory Paternity Pay

Employees must request paternity pay at least 15 weeks before the week the baby is expected.

Notice does not have to be in writing unless we request it.

Employees can ask for leave and pay in writing using [the online form](#). Employees will need to download or print the form after completing it and give us a copy.

Employees having a baby through a surrogacy arrangement must use [form SC4](#) to request leave and pay.

Late notice

We can delay the leave or pay start date if the employee does not have a reasonable excuse for giving us the wrong amount of notice. To delay it, write to them within 28 days of their leave request.

Adoption

Eligible employees are [entitled to paternity leave and pay](#) if they're adopting a child.

Calculate an employee's paternity leave and pay using the [maternity and paternity calculator](#).

For overseas adoptions we'll need to use our payroll software with the accountants.

Eligibility

An employee adopting a child must:

- have been [continuously employed by us](#) for at least 26 weeks up to any day in the week they were matched with a child (UK adoptions)
- have been continuously employed by us for at least 26 weeks by either the date the child arrives in the UK or when they want their pay to start (overseas adoptions)
- confirm that their partner is getting Statutory Adoption Pay in writing or by giving us a copy of their partner's [form SC6](#)

- meet the other [eligibility conditions](#) for paternity leave or pay

Notice period

An employee adopting a child must send us [form SC4](#) for:

- leave - no later than 7 days of their co-adopter or partner being matched with a child
- pay - 28 days before they want their pay to start

For overseas adoptions the form and notice period is different. The process is explained on [form SC5](#).

Leave start date

An employee taking paternity leave because they're adopting can start their leave:

- on the date of placement
- an agreed number of days after the date of placement
- on the date the child arrives in the UK or an agreed number of days after this (overseas adoptions)

For overseas adoptions leave must be taken within 56 days of the date of placement or the child's arrival in the UK.

Proof of adoption

Employees must give us proof of adoption to qualify for paternity pay. Proof is not needed for paternity leave unless we request it. Proof can be a letter from their adoption agency or their matching certificate.

We must [keep records](#) of the proof.

Refuse pay form SPP1

We can refuse Statutory Paternity Pay if the employee does not qualify. To do this send them [form SPP1](#) within 28 days of their pay request. We must keep a copy.

The employee can ask us for a written statement explaining our decision. We have to give this to them within a reasonable time, for example 7 working days.

Record keeping

We must keep records for HM Revenue and Customs (HMRC), including:

- the date Statutory Paternity Pay started

- the paternity payments we've made (including dates)
- the [payments we've reclaimed](#)
- any weeks we did not pay and why
- if adopting, a letter from the adoption agency or a matching certificate

We must keep records for 3 years from the end of the tax year they relate to (for example by using [form SPP2](#) or keeping our own records).