

## Managing pregnancy and maternity

### 1 . When someone must tell you

By law, anyone [legally classed as an employee](#) must tell you:

- that they're pregnant
- the expected week of the birth – to confirm this you can ask for a medical certificate, such as a 'MAT B1' form if they're more than 20 weeks pregnant
- the date they want to start [maternity leave](#) – the earliest it can start is 11 weeks before the due date

They must tell you this information no later than 15 weeks before the due date.

This information does not have to be in writing. But if you ask for it in writing, the employee must provide it that way.

After you've received the information you must:

- reply to the employee within 28 days
- tell them they're entitled to 52 weeks' maternity leave
- confirm their return to work date (they can change it later if they want to take less, but must give you 8 weeks' notice)

If the employee tells you how long they want off, use this to work out their return to work date. Otherwise, assume they'll take 52 weeks.

If you do not give them this information, you:

- cannot stop them from returning early without notice
- might not be able to discipline or dismiss them for delaying their return from maternity leave

[Use our template letter to confirm an employee's maternity leave](#)

### Have a pregnancy and maternity policy

It's a good idea for your organisation to have a pregnancy and maternity policy that all staff can easily access, for example on an intranet or in a handbook. This can help everyone know where they stand.

### If you think your employee is pregnant and they have not told you

It's best to take a supportive and sensitive approach if you think your employee is pregnant and they have not confirmed it yet.

They may have a good reason for not telling you straight away. For example, it may be very early in the pregnancy, or they may not have told family or friends yet.

If you think they're pregnant and it's affecting their work, you could ask them for a quiet chat to discuss whether they need any support from you.

## If you've not employed them yet

A person does not have to tell you they're pregnant if you've not yet employed them, for example if they've only come for an interview.

It's likely to be unlawful discrimination if you do not employ someone because they're pregnant or you believe they're pregnant.

You should never ask job applicants if they're pregnant or planning to have children.

## Once they've accepted a job offer

Once they've accepted a job offer, the rules for pregnant employees apply.

They must also tell you about any:

- [health and safety concerns](#)
- [planned 'antenatal' \(pregnancy-related\) appointments](#)

## If you employ them less than 15 weeks before their baby is due

Once they've accepted the job offer, the person must tell you they're pregnant and follow the other rules for pregnant employees.

## 2. Discrimination

By law (Equality Act 2010), you must not discriminate against someone you employ, or are considering employing, because of:

- their pregnancy
- an illness related to their pregnancy, including related time off
- maternity pay or leave they take, or plan to take

The law applies regardless of how long the person has been employed.

It applies to:

- anyone [legally classed as an employee or worker](#)
- some self-employed people, if the person has to do the work personally (this is a complex area so [get legal advice](#) if it affects you)

The person could make a claim to an employment tribunal if they believe they've been discriminated against because of pregnancy and maternity.

Discrimination could include:

- [dismissing them](#)
- not offering them a job
- changing their pay or other terms
- forcing them to work while on maternity leave
- stopping them returning to work because they're breastfeeding

The law covers the person during the 'protected period'. This is the period of time from the point they become pregnant until either:

- their maternity leave ends
- they return to work
- they leave their job

Treating someone unfavourably outside the protected period might still be discrimination, if it's connected to their pregnancy or maternity.

If you do dismiss someone while they're pregnant or on maternity leave, you must give them the reasons in writing.

[Find out more about discrimination at work](#)

### 3. Check health and safety risks

By law, you must have a general health and safety risk assessment for all employees. This includes considering specific risks for employees of a childbearing age, for example those who could become pregnant, are pregnant and new mothers.

Specific risks to employees of childbearing age could include:

- work-related stress
- lifting and carrying heavy objects
- sitting or standing for long periods of time
- exposure to toxic chemicals and radioactive materials

### Carrying out individual risk assessments

You must carry out an individual risk assessment when an employee tells you in writing that:

- they're pregnant
- they've given birth within the last 6 months
- they're breastfeeding

You should review the risk assessment regularly.

[Find out more about risk assessments for pregnant workers and new mothers from the Health and Safety Executive](#)

### Have regular health and safety discussions

Once you know an employee is pregnant, a new mother or breastfeeding, you should have regular health and safety discussions with them.

You should consider:

- possible risks that may occur at different stages of pregnancy
- medical advice the employee has received
- the type of work they do

### Removing and reducing risks

You must temporarily change the employee's working conditions or hours, if both of the following apply:

- the risk assessment or subsequent discussions with the employee show that risks exist
- the risks cannot be reduced or removed

### **If it's not possible to change working conditions or hours**

You must offer other suitable work to the employee. This work must be both:

- at the same rate of pay
- on terms that do not treat the employee any less favourably

### **Example of agreeing other suitable work**

Jean has a factory packing job that involves lifting heavy crates of food.

Jean tells their boss they're pregnant. As heavy lifting may not be safe for Jean to do while pregnant, Jean's boss offers Jean a temporary alternative job until they go on maternity leave. This job was one found to be safe for pregnant employees when the business did its health and safety risk assessment.

This job does involve packing but not heavy lifting. Jean's pay will remain the same. But the job is at a location 30 minutes further away from Jean's home.

Jean lets their boss know that this would mean extra travel time and costs. As things stand, the terms of Jean's job are not as favourable so the organisation could be breaking the law.

After a discussion with HR, Jean's boss tells them that the organisation will pay for the extra travel. Jean's boss also agrees to treat the extra travel time as part of Jean's working time. This way Jean's working day will not be any longer.

As Jean's overall terms will now be as favourable as for Jean's usual job, they are likely to be within the law. Jean accepts this temporary job.

### **If the employee does not want to do other suitable work**

If the employee does not want to do the other suitable work you've offered, it's a good idea to:

- explore with them why they do not want it
- work with them to find something else suitable

For example, if they object because of health or safety reasons, you could involve a health and safety representative (if there is one at your workplace) to help find them appropriate work.

### **When you might need to suspend the employee on full pay**

If the risks cannot be removed or reduced, and you cannot offer suitable other work, you must suspend the employee from work on full pay.

The suspension must last until either:

- their maternity leave begins
- it's safe for them to start work again

You must also give the employee:

- the outcome of the risk assessment
- the reason why the risk could not be removed

## If they're self-employed

If you hire someone who's pregnant and self-employed, you're still responsible for their health and safety at work.

It's best to discuss with them what risk assessment they need depending on the job they do.

[Find out more about health and safety for self-employed people from the Health and Safety Executive](#)

## If they're an agency worker

An agency worker's time off, pay and other rights depends on their [employment status](#).

The worker's recruitment or employment agency is responsible for fulfilling these rights.

You should:

- keep any information you have about their pregnancy confidential – for example, if you find out about it before their agency does
- check that the job is still safe for them to do, and let them and the agency know if it's not

[Find out more about rights for agency workers](#)

## 4. IVF treatment

Having IVF treatment can be difficult emotionally and physically. It's a good idea to be understanding and supportive towards someone who's having this treatment. For example, they'll probably need time off for medical appointments.

A supportive attitude also means they're more likely to be open with you about how their treatment, and any problems they're having, could affect their wellbeing or work.

An employee having IVF treatment might tell you they could become pregnant, once they've reached the 'embryo transfer' stage. This is the point when a fertilised egg (embryo) is placed inside their body. They do not have to tell you at this stage.

## If they've reached the embryo transfer stage

If the employee tells you they've reached the embryo transfer stage, from a legal perspective you must treat them as pregnant.

From this stage they'll have the same rights as any pregnant person, including leave, pay, and protection from [discrimination because of pregnancy or maternity](#).

It can take several more weeks for a pregnancy test to confirm if the pregnancy is successful. They do not have to tell you about the pregnancy's success. But an open and supportive working environment means it's more likely they'll tell you about any issues that could affect their wellbeing or work.

## 5. Your employees' rights

As an employer, it's important to understand the rights an employee has when they're pregnant or on maternity leave.

## Maternity leave

Employees are entitled to 52 weeks' maternity leave.

They have this right from the day they start the job.

### Changing the maternity leave start date

Your employee must give you 28 days' notice if they want to change their maternity leave start date. If it's shorter notice, the new date must be agreed by both of you.

### If they do not want to take all their leave

Employees do not have to take their full maternity leave. But they must take at least the first 2 weeks following the birth. This period is known as compulsory maternity leave.

If they work in a factory, they must take at least the first 4 weeks following the birth.

You must not discourage the employee from taking all their maternity leave.

### 4 weeks before the baby is due

If the employee is off work because of a pregnancy-related illness within 4 weeks of the week the baby is due, maternity leave begins automatically. This is unless you and the employee agree together to delay it.

Once maternity leave starts, you must pay the employee maternity pay instead of sick pay.

### If the baby arrives early or unexpectedly

If the baby arrives early, maternity leave and pay starts on the day after the birth.

Your workplace might have a policy about who must inform you of the birth and how quickly.

If the baby's arrival is unexpected or traumatic, you might be told about it from someone other than the employee, for example a member of their family. 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 is late and your employee planned to take leave from a specific date

If the baby is late and your employee gave you a specific date they wanted maternity leave to start, they can still start the leave from that date.

They need to tell you the date they give birth, so that they start their compulsory maternity leave from then.

### If the baby is late and your employee planned to start leave the day after the birth

If your employee told you they wanted to start maternity leave the day after the birth, you do not need to change anything.

If they want to start their maternity leave early, they must give you 28 days' notice of the new start date. If they have a good reason not to give this notice, for example it's late in the pregnancy, you would both need to agree this date.

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

The employee still has their maternity leave and pay rights if the baby:

- is stillborn after 24 weeks of pregnancy
- 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 maternity leave.

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

While the legal name for the time off is 'statutory maternity leave', some employees might not want to call the time off 'maternity leave' if their baby has died. You should be sensitive to the employee's preference and be led by them when having conversations about leave.

If you need to discuss work-related matters with the employee, you could arrange with someone else (for example, a 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 for a limited time

You could also offer more time off or a phased return to work.

[Find out more about supporting an employee after a death](#)

## If there's a miscarriage

If the employee has a miscarriage in the first 24 weeks of pregnancy, there's no entitlement to maternity leave.

However, many people would still consider miscarriage a bereavement. You should still consider offering time off at what can be an extremely difficult time, both physically and emotionally.

[Find out more about if an employee or their partner has a miscarriage](#)

## The law on discrimination

It's against the law to treat an employee unfairly because of maternity leave they take, or plan to take.

## Maternity pay

Employees are entitled to [maternity pay](#).

## Shared parental leave

The pregnant employee and their partner might be able to use shared parental leave. Shared parental leave allows leave to be used more flexibly between the pregnant employee and their partner.

This means the pregnant employee could end maternity leave early.

The pregnant employee must still take at least 2 weeks' maternity leave after the baby is born.

[Find out more about shared parental leave](#)

## Holiday

Employees 'accrue' (build up) their holiday entitlement as usual during maternity leave. This includes bank holidays.

They cannot take holiday or get holiday pay at the same time as maternity leave.

You could agree to them adding holiday to the start or end of their maternity leave if they want more paid time off.

By law, you must allow your employee to take their statutory holiday entitlement during the holiday year. But if they're not able to use it because they're on maternity leave for all or most of the year, you must allow them to carry it over to the next holiday year.

If you do not allow someone to take their holiday because of their sex, pregnancy or maternity, it could be [discrimination](#).

You should:

- talk and agree with them as early as possible about when they'll take their holiday
- put in writing what's agreed

[Find out more about holiday entitlement](#)

## Redundancy

If you need to make the employee redundant when they're pregnant or on maternity leave, you must:

- check the redundancy is genuine and necessary
- ensure you consult and keep in touch
- use redundancy selection criteria that do not discriminate
- consider alternative work

The pregnancy or maternity must not be part of the reason to make them redundant – you might be breaking discrimination law if it is.

Find out more about:

- [managing redundancies](#)
- [redundancy protection for pregnancy and new parents](#)

## Dismissal because of pregnancy or maternity

If you dismiss your employee while they're pregnant or on maternity leave, you must give them the reasons in writing.

Pregnancy or maternity is never a valid reason to dismiss someone. You could be breaking discrimination law if you do this.

[Find out more about dismissals](#)

## Agency workers

There are [different pregnancy and maternity rights for agency workers](#).

## Surrogates



If they're [legally classed as an employee](#), surrogates have the same rights to maternity leave and pay as other pregnant employees.

Find out more about:

- [having a child through surrogacy](#)
- [legal rights of parents and surrogates on GOV.UK](#)

## 6. Pay

Maternity pay starts as soon as your employee starts maternity leave.

### Pay set out in the employment contract

The employee's contract should state:

- how much pay they get when on maternity leave
- how long they get this pay for

Pay set out in the employment contract is known as 'enhanced' or 'contractual' maternity pay, if it's more than statutory (legal minimum) maternity pay.

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

### The legal minimum for maternity pay

If your business does not offer enhanced maternity pay, it must pay statutory maternity pay.

#### During the first 6 weeks of maternity leave

Pay them 90% of their average weekly earnings.

#### During the next 33 weeks of maternity leave

Pay whichever of these is lower:

- £184.03 a week
- 90% of their average weekly earnings

Unless the contract says otherwise, you do not have to provide maternity pay after this period has ended.

### Eligibility

Someone who's [legally classed as an employee](#) is eligible for statutory maternity pay if both of the following apply:

- they've worked continuously for your organisation for at least 26 weeks, ending with the 15th week before the week the baby is due
- their average weekly earnings are at least £123 a week, up to the end of the 15th week before the baby is due

Someone who's [legally classed as a worker](#) might also be eligible for statutory maternity pay.

If an employer offers enhanced maternity pay, it must always be higher than statutory maternity pay.

## Calculating statutory maternity pay

[Use the maternity pay calculator on GOV.UK](#)

## If they're not entitled to statutory maternity pay

If the employee is not entitled to statutory maternity pay, you must give them the 'SMP1' form within 7 days of your decision.

[Find the SMP1 form on GOV.UK](#)

## Maternity Allowance

A pregnant employee or worker might be eligible for Maternity Allowance, if they cannot get enhanced maternity pay or statutory maternity pay.

Maternity Allowance is paid by the government. It lasts for up to 39 weeks.

[Find out more about Maternity Allowance on GOV.UK](#)

## Keeping records

You must keep records of statutory maternity pay payments. You can find out more about:

- [keeping statutory maternity pay records on GOV.UK](#)
- [help with statutory pay on GOV.UK](#)

## Repayment if someone does not return to work after maternity leave

If your employee does not return to work after maternity leave, they might have to repay maternity pay. This depends on the type of pay and what their contract says.

### They do not return to work and have taken statutory maternity pay

The employee does not need to repay any statutory maternity pay they've taken.

### They do not return to work and have taken enhanced maternity pay

The employee must repay some or all of their enhanced maternity pay if the [written terms of their employment](#) say so.

If this money does need to be repaid:

- the written terms must be clear about the circumstances
- you should remind the employee informally about this repayment, for example in any regular meetings you have with them, before they start getting this money

## Questions about statutory maternity pay

You can call the [HM Revenue and Customs \(HMRC\) helpline](#) if:

- you and someone else disagree about how much statutory maternity pay they should get, or for how long
- you cannot pay it, for example because you're insolvent

## Agency workers

[Find out more about employment rights for agency workers](#)

## The law on discrimination

It's against the law (Equality Act 2010) to treat an employee unfairly because of any reason connected to pregnancy or maternity.

[Find out more about discrimination at work](#)

## 7. Illness and difficult pregnancy

If an employee cannot come to work because of a pregnancy-related illness, they should:

- report in sick in the usual way
- get their usual [sick pay](#)

Pregnancy-related illness can include:

- morning sickness (nausea and vomiting)
- tiredness
- headache
- backache
- bleeding

If you're not sure whether an illness is pregnancy-related, you can ask your employee to provide a [fit note from a registered healthcare professional](#).

You should be as flexible as you can about the amount of sick leave they take – pregnancy-related illnesses affect people differently.

## Recording pregnancy-related absence

You should record pregnancy-related absence separately from other sickness absence.

You should not count these absences towards any [review or trigger points](#) in your absence policy.

Find out more about:

- [sick pay](#)
- [absence policies](#)

## 4 weeks before the baby is due

If the employee is off work because of a pregnancy-related illness within 4 weeks of the due date, maternity leave begins automatically. This is unless you and the employee agree together to delay it. The employee's wellbeing should take priority.

Once maternity leave starts, you must pay them maternity pay instead of sick pay.

## If they have a difficult pregnancy

It's a good idea to be understanding towards an employee who's having physical or mental health difficulties when pregnant.

For example, consider offering:

- different work start and finish times
- the option to do some work from home
- extra breaks
- an occupational health assessment, for example to look at whether a chair can be adjusted for someone with back pain

If they need long-term changes to how they work, [flexible working](#) might be a good idea.

## The law on discrimination

It's against the law (Equality Act 2010) to treat an employee unfairly because of a pregnancy-related illness.

## 8. Pregnancy-related appointments

Pregnant employees are entitled to time off with full pay for 'antenatal' (pregnancy-related) appointments.

Antenatal appointments include:

- medical appointments related to a pregnancy
- classes for pregnancy-related health, fitness or relaxation
- sessions that support the person's mental health and wellbeing

Paid time off for antenatal appointments includes travel time.

The employee should give you as much notice as possible for time off work.

## How much time is needed

The law does not say how much time can be taken off, only that it must be a 'reasonable' amount.

Usually, a pregnant employee needs:

- up to 10 antenatal appointments if it's their first baby
- around 7 antenatal appointments if they've had a baby before

As every pregnancy is different, it's a good idea to be flexible and understanding if an employee needs more appointments.

After the first appointment, they must provide an appointment card or other evidence of their appointments if you ask for it.

## If they're adopting

By law:

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

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

[Find out more about rights for employees using adoption](#)

## If they're using surrogacy

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.

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

[Find out more about rights for employees using surrogacy](#)

## If they're having IVF treatment

There's no legal right for time off work for IVF treatment or related sickness. But you should treat an employee's IVF appointments and any sickness the same as any other medical appointment or sickness. Check the employment contract if you're not sure.

It's a good idea to be open to any requests your employee has for:

- flexible working
- paid time off, unpaid time off or holiday

## Agency workers

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

## The law on discrimination

It's against the law to treat an employee unfairly because of their antenatal appointments.

## 9. Planning maternity leave

Before maternity leave starts, you should agree with your employee the best way to keep in touch about important changes or news at work.

This includes arranging how you'll keep in touch. Try and agree a way of keeping in touch that's comfortable for your employee, for example you can ask them if they prefer email to phone calls.

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 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 maternity leave

## Keeping in touch days

You and the employee could have up to 10 optional keeping in touch (KIT) days during their maternity leave, if both sides agree.

Keeping in touch days help employees stay in contact with their organisation, for example by joining training sessions or team meetings.

Before arranging keeping in touch days, you should arrange with your employee the work they'll do on these days.

If an employee works part of a keeping in touch day, it still counts as a full day.

If they work more than 10 keeping in touch days, their maternity leave and pay automatically end.

## If they're taking shared parental leave

As well as taking up to 10 keeping in touch days, an employee taking shared parental leave might be able to take 20 extra days for keeping in touch.

These extra days are known as shared parental leave in touch (SPLIT) days.

[Find out more about shared parental leave in touch days](#)

## Pay and keeping in touch days

You should agree pay for keeping in touch days in advance. The easiest option is to pay normal pay for the day.

You can sometimes pay less than normal pay depending on what someone is doing on their keeping in touch day. But paying someone less than they normally would get for doing the same thing could be [discrimination](#).

You must not pay less than [National Minimum Wage](#).

## If they become pregnant on maternity leave

If the employee becomes pregnant while on maternity leave, they're entitled to another 52 weeks' maternity leave.

By law, the employee cannot start their next maternity leave until the 11th week before their baby is due. So if their first maternity leave ends before that point, they'll need to either:

- return to work until at least the 11th week before the baby is due
- see if they can stay off work by taking another type of leave (such as holiday leave) – it's up to you to decide if they can do this and they must give you the correct notice

## Employing someone else to do the work

You can choose to employ someone else to do the work ('maternity cover') while the employee is on maternity leave.

The maternity cover can be an existing or new employee.

Usually these roles are temporary with a fixed end date.

You must tell the person doing maternity cover what happens when their role ends. For example:

- if they're an existing employee, whether they'll go back to their previous role or to a different one
- if they're a new employee, whether their job will come to an end – if so you must end their contract fairly

## 10. Returning to work

Once your employee's maternity leave has ended, their right to return to the same job depends on how much leave they've taken.

### They've taken up to 26 weeks' maternity leave

They have the right to return to the same job.

### They've taken more than 26 weeks' maternity leave

They have the right to return to the same job unless you have a genuine reason to offer them an alternative.

This right applies even if someone else is doing that person's job well while they're on maternity leave.

If there's no alternative but to offer them a different job, the job must be suitable, appropriate and on the same terms. For example, it must have the same:

- pay
- benefits
- holiday leave and pay
- location
- seniority

## Changing the date they want to return

An employee must tell you in writing at least 8 weeks before they're due to return to work if they want to:

- stay on maternity leave longer than planned
- return to work sooner than planned

## If they want to change how they work

An employee can make a flexible working request if they want to make significant changes to how they work, for example different working hours.

[Find out more about flexible working](#)

## Holiday leave and pay

Employees 'accrue' (build up) paid holiday as normal during maternity leave.

This means they could return to work with a lot of holiday to take. So it's a good idea to agree with them how they'll take their holiday before they go on maternity leave.

Whether they'll need to carry over any holiday depends how far through the holiday year they return to work. For example, if they take 6 months' maternity leave and return to work with 6 months left of the holiday year, they might have time to take their holiday.

[Find out more about holiday leave and pay](#)

## Health and safety

The law says you must do a health and safety risk assessment for women of childbearing age, including pregnant women and new mothers.

[Find out more about checking health and safety risks](#)

## Breastfeeding

By law, you must provide somewhere suitable for your employee to rest if they're breastfeeding.

It's a good idea to also provide support so they can breastfeed or express milk at work, such as a private room and a fridge to store the milk.

## 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.

[Find out more about time off for dependants](#)

## Redundancy

By law, you cannot make an employee redundant for taking maternity leave or requesting flexible working to care for their child.

There is extra redundancy protection for employees who are pregnant or take maternity leave.

Find out more about:

- [the employee's rights](#)
- [redundancy protection for pregnancy and new parents](#)

## If the employee wants to leave their job

The employee must follow the usual process for resigning, including giving notice. This process should be written in their employment contract.

It's a good idea to consider any handover that might be needed. You could use [keeping in touch \(KIT\) days](#) to do this.



They might need to [repay some or all of their maternity pay](#) if they took 'enhanced' maternity pay.

## **If the employee has a complaint**

If the employee is unhappy about how their return to work has been managed, they can raise the problem with you.

[Find out about dealing with a problem raised by an employee](#)