

Rights during and after leave

By law, anyone with the [legal status of employee](#) is protected whilst on neonatal care leave and when returning to work.

Someone is not likely to be an employee if they're:

- an agency worker
- a casual worker
- on a zero-hours contract

Protection from dismissal

Employees cannot be dismissed because they:

- planned to take neonatal care leave
- are taking neonatal care leave

Protection from detriment

An employer must not cause an employee 'detriment' for taking, or planning to take, neonatal care leave.

Detriment means someone experiences one or both of the following:

- being treated worse than before
- having their situation made worse

Examples of detriment could be:

- they experience [bullying](#)
- they experience [harassment](#)
- the employer turns down their training requests without good reason
- they are overlooked for promotions or development opportunities
- their employer reduces their hours without good reason

If an employee believes they've experienced detriment because of neonatal care leave, they can raise this with their employer.

It's usually best to first raise the problem informally by [talking with their employer](#).

If this is not possible or it does not resolve the problem, they can [raise a grievance](#). This is where they make a formal complaint to their employer.

If the problem still does not get resolved, they could make a claim to an [employment tribunal](#).

Returning to the same job

If an employee returns to work after taking only neonatal care leave, they have the right to return to the same job.

Employees might return after taking neonatal care leave with another type of leave. An employee's right to return to the same job as before depends on how much total leave they've taken.

If an employee has taken 26 weeks or less

An employee has the right to return to the same job if they have taken one of the following:

- 26 or less consecutive weeks of neonatal care leave and other periods of statutory leave
- 12 weeks or less of neonatal care and less than 4 weeks of [ordinary parental leave](#)

If an employee has taken more than 26 weeks

Employees have the right to return to their job on the same terms as before they left. This includes neonatal care leave and other periods of statutory leave.

If there have been significant changes to the organisation, they might be offered a similar job. In that case they have the right to return to a job that is suitable, appropriate and on the same terms.

For example, it must have the same:

- pay
- benefits
- holiday entitlement
- seniority
- location

Getting legal advice

The law on returning to the same job can be complicated. It's important for employers to understand their legal responsibilities. If it is not clear whether employees have the right to return to the same job, it can be a good idea to [get legal advice](#).

Protection from redundancy

An employee's role is protected while they are on neonatal care leave. A role cannot be selected for redundancy because the person:

- has taken neonatal care leave
- plans to take neonatal care leave

If the employee has taken 6 consecutive weeks of neonatal care leave they will have additional protection from redundancy.

This redundancy protected period is for:

- 18 months from birth for birth parents and intended parents in a surrogacy
- 18 months from the day the child is placed for adoption
- 18 months from the day the child enters Great Britain for overseas adoptions

Employees are entitled to be offered suitable alternative roles that are available:

- when they are on a period of neonatal care leave
- during the redundancy protected period if they have taken 6 consecutive weeks or more of neonatal care leave

[Find out more about redundancy protection for pregnancy and new parents](#)