

Surrogacy

Important: From 6 April 2026, employees will be eligible for paternity leave from the first day of employment. Currently employees must have worked for their employer for 26 weeks before they are eligible.

If someone is using a surrogate parent to have a baby and they or their partner have a genetic link to the child, they can apply for a 'parental order'.

A parental order transfers the parental rights from the surrogate so they become the 'intended parents' by law.

If they're eligible, one of the intended parents can take [adoption leave](#) and one can take statutory paternity leave. It is up to the parents to decide which each of them uses.

They cannot change or swap which one they're taking once they have informed their employers.

Eligibility for statutory paternity leave for surrogacy

To take statutory paternity leave, the intended parent must:

- intend to apply for a parental order in the 6 months after the baby's birth and expect it to be granted
- meet the eligibility criteria for statutory paternity leave

If the employer asks for proof

The employer might ask for a 'statutory declaration'.

This is a written statement provided by a solicitor. It confirms the intended parent has been truthful about intending to apply for, and be successful in getting, a parental order.

Eligibility for statutory paternity pay for surrogacy

The intended parents must choose who will take adoption pay and who will take statutory paternity pay. They cannot change or swap which one they're taking once they've told their employers.

The intended parent who has chosen to take statutory paternity pay must:

- be eligible for and intend to apply for a parental order and expect it to be granted, or have one already
- be married to, the civil partner or partner of the other intended parent, including same-sex partners
- have the main responsibility for the care of the child together with the other intended parent

They must also:

- have [the legal status of employee](#) or work for the employer through an agency
- have worked continuously for the same employer for at least 26 weeks up to any day in the 'qualifying week'
- continue to be employed by the same employer until the birth of the child
- earn on average at least £125 a week over the 8-week period ending with any day in the qualifying week (£129 from 6 April 2026)

To work out the qualifying week, use a calendar to count back 15 weeks from the week the baby is expected to be born.

Giving notice to take paternity leave

The intended parent who's taking paternity leave must tell their employer the expected date of birth.

They must also tell their employer in writing that:

- they have, or expect to have, responsibility for bringing up the child
- they are married to, the civil partner or partner of the other intended parent
- they and the other intended parent are parental order parents of the child

They must give this information to their employer no later than the end of the 'qualifying week'.

To work out the qualifying week, use a calendar to count back 15 weeks from the week the baby is due. The qualifying week starts on a Sunday and ends on a Saturday.

For example, Alex's baby is due on 1 May 2026. The qualifying week starts on Sunday 11 January 2026 and ends on Saturday 17 January 2026. Alex must give their employer the relevant information before Saturday 17 January 2026.

To give their employer information in writing, an employee can use either:

- a letter or email
- the form [statutory paternity pay and leave: becoming an adoptive or parental order parent \(SC4\) on GOV.UK](#)

Parents who will be newly eligible for paternity leave with a due date between 5 April and 25 July 2026

From 6 April 2026, employees will be eligible for paternity leave from the first day of employment. Currently employees must have worked for their employer for 26 weeks before they are eligible.

On 18 February 2026, a temporary reduced notice period was introduced. Employees can give 28 days' notice, instead of 15 weeks. This is only for parents who will become newly eligible because of the law change. It allows parents to take paternity leave from the first day of the new law.

The temporary 28-day notice period applies if:

- the employee will become eligible for paternity leave on 6 April 2026 because of the change in the law
- the expected due date is between 5 April and 25 July 2026

If the due date is 26 July 2026 or later, the usual 15-week notice period will apply.

Parents who were already eligible for paternity leave before 6 April 2026 must give the usual 15 weeks' notice.

Example of when newly eligible parents should give notice

Kit and Bobby are expecting a baby on 23 April 2026. Bobby started working for their employer in January 2026. Bobby will become eligible to take paternity leave on 6 April 2026. This is because it will become a 'day one right'. From 18 February 2026, Bobby can give 28 days' notice to take paternity leave.

Giving the employer the dates of paternity leave

For each period of leave the employee wants to take, they must give their employer:

- the date they want the period of leave to start and how long it will last
- confirmation in writing that the purpose of the leave is to care for the child or the child's other intended parent, or both

They must give this to their employer at least 28 days before they want their paternity leave to start.

When the baby is born

An employee must tell their employer the actual date of birth when the child is born. They must do this as soon as possible after the birth.

If an employee cannot give information in the required time

There might be a good reason why an employee cannot give their employer information within the required time. In this case, the employee must provide the information as soon as possible.

Contact the Acas helpline

If you have any questions about paternity leave and pay for surrogacy, [contact the Acas helpline](#).