

## When employees are off work

An employee's entitlement to pay rises when they are off work depends on the type of leave they are taking.

### Maternity leave

A pay rise might affect an employee's statutory maternity pay. This depends on when the pay rise is awarded.

#### Recalculating statutory maternity pay

Statutory maternity pay is based on an employee's average weekly earnings.

Average weekly earnings are calculated over an 8-week period leading up to an employee's 'qualifying week'. To work out the qualifying week, use a calendar to count back 15 weeks from the week the baby is expected to be born.

An employer might award a pay rise between the start of an employee's 8-week calculation period and the end of their maternity leave. The employer must take this into account when calculating the employee's statutory maternity pay.

The employer must recalculate the maternity pay as if the pay rise had taken effect at the start of the 8-week calculation period.

This applies even if the pay rise is not backdated into the 8-week calculation period. The employer must make an additional 'top-up' payment to the employee.

#### If an employer excludes someone on maternity leave

If an employer excludes employees on statutory maternity pay from a pay rise, it could be:

- maternity discrimination
- unlawful deduction from wages

[Find out more about statutory maternity pay](#)

#### Enhanced maternity pay

It might be written in the contract that employees get more than statutory maternity pay. This can be called 'enhanced' or 'contractual' maternity pay.

If a pay rise is awarded, an employee on enhanced maternity pay should get it at the same time as other employees.

The employer does not need to backdate the pay rise to the start of the maternity pay period.

### Statutory adoption leave

A pay rise might affect an employee's adoption pay. This depends on when the pay rise is awarded. Statutory adoption pay is based on an employee's average weekly earnings.

The employee's average weekly earnings are calculated over the 8-week period before the week they're matched with a child.

A pay rise might be awarded while an employee is on adoption leave. The employer does not need to recalculate their statutory adoption pay unless the pay rise is backdated.

However, the employee will be entitled to the pay rise on their return to work.

### **If the pay rise is backdated**

An employer might award a backdated pay rise that includes the 8-week calculation period.

In this situation the employer must include the pay rise when calculating the employee's statutory adoption pay. This applies even if the pay rise is paid at a later date.

[Find out more about statutory adoption pay](#)

### **Enhanced adoption pay**

It might be written in the contract that employees get more than statutory adoption pay. This can be called 'enhanced' or 'contractual' adoption pay.

If a pay rise is awarded, an employee on enhanced adoption pay should get it at the same time as other employees.

## **Statutory shared parental leave**

A pay rise might affect an employee's shared parental leave pay. This depends on when the pay rise is awarded.

Statutory shared parental pay is based on an employee's average weekly earnings.

The employee's average weekly earnings are calculated over an 8-week period leading up to either:

- the week of expected birth
- the adoption match date

A pay rise might be awarded while an employee is on shared parental leave. The employer does not need to recalculate their statutory shared parental pay unless the pay rise is backdated. However, the employee will be entitled to the pay rise on their return to work.

### **If the pay rise is backdated**

An employer might award a backdated pay rise that includes the 8-week period used for calculating the employee's normal weekly earnings.

In this situation the employer must include the pay rise when calculating the employee's statutory shared parental pay. This applies even if the pay rise is paid at a later date.

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

### **Enhanced shared parental pay**

It might be written in the contract that employees get more than statutory shared parental pay. This can be called 'enhanced' or 'contractual' shared parental pay.

If a pay rise is awarded, an employee on enhanced shared parental pay should get it at the same time as other employees.

## Sick leave

If a pay rise is awarded to all staff, an employee on long-term sick leave should receive this.

Employers should be careful with pay rises based on individual performance.

It could be [disability discrimination](#) if:

- an employee's health condition is disability-related
- their employer excludes time on long-term sick leave when calculating a pay rise

This is a complex area of law. If employers need more information on performance-related pay rises and sick leave, they should [get legal advice](#).