

When employees are off work

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

Maternity leave

An employee's bonus entitlement whilst on maternity leave might depend on whether the bonus is based on:

- performance of the organisation
- performance of an individual employee

The law on maternity leave and bonuses can be complicated. It's important for employers to understand their legal responsibilities. If it is not clear whether an employee should get a bonus, it can be a good idea to [get legal advice](#).

Bonuses based on organisation performance

If a bonus is based only on the organisation's performance, the employee should receive this whilst on maternity leave. The employee still needs to meet the conditions attached to the bonus.

It could be [maternity discrimination](#) if an employer:

- does not pay this type of bonus to employees on maternity leave
- pays employees on maternity leave a lower amount than other employees

If the bonus is contractual the employer might also be breaching the contract.

Example of bonus based on organisation performance

Lou is on maternity leave. If the organisation makes enough profit, an end-of-year bonus of £250 is paid to all employees. The employer is paying the bonus this year.

Lou's contract says the bonus will only be paid to current employees who are not in a notice period.

As Lou is still employed and not under notice, they should receive the bonus.

Bonuses based on individual employee performance

If a bonus is based on individual performance, employers can 'pro-rata' payments for employees on maternity leave. Pro-rata in this situation means in proportion to the amount of the bonus year worked.

Employees on maternity leave will be entitled to a pro-rata bonus for the time that they:

- were at work, before their maternity leave started
- were on compulsory maternity leave (the first 2 weeks of maternity leave following the birth of the baby, or 4 weeks for factory workers)

- were working a keeping in touch (KIT) day

The employee still needs to meet the conditions attached to the bonus, such as achieving performance targets.

If an employer does not pay this type of bonus to employees on maternity leave, it could be:

- maternity discrimination
- unlawful deduction from wages

Example of bonus based on individual employee performance

Jo is at work for 26 weeks of the bonus year, and on maternity leave for the other 26 weeks. Jo met all of their performance targets before going on maternity leave.

Jo's bonus should be calculated based on the 26 weeks they worked, plus their 2 weeks' compulsory maternity leave.

Shared parental and adoption leave

An employee's bonus entitlement whilst on shared parental or adoption leave might depend on whether the bonus is based on the:

- performance of the organisation
- performance of an individual employee

Bonuses based on organisation performance

If a bonus is based only on the organisation's performance, the employee should receive this whilst on shared parental or adoption leave. The employee still needs to meet the conditions attached to the bonus.

Bonuses based on individual employee performance

If a bonus is based on individual performance, employers can 'pro-rata' payments for employees on shared parental or adoption leave. Pro-rata in this situation means in proportion to the amount of the bonus year worked.

Employees on shared parental or adoption leave will be entitled to a pro-rata bonus for the time that they:

- were at work, before their leave started
- were working a keeping in touch (KIT) day or shared parental leave in touch (SPLIT) day

The employee still needs to meet the conditions attached to the bonus, such as achieving performance targets.

If an employer does not pay this type of bonus to employees on shared parental or adoption leave, it could be unlawful deduction from wages.

Sick leave

If a bonus is based only on the organisation's performance, the employee should receive this whilst on long-term sick leave.

If a bonus is based on individual performance, employers should be careful if excluding time spent on long-term sick leave. If an employee's health condition is disability-related, this could be [disability discrimination](#).

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

Suspension

Suspension is when an employer tells an employee to temporarily stop carrying out work.

Suspension might be for medical reasons, or to allow an employer to carry out a disciplinary or grievance investigation.

Employees should continue to receive their pay and their contractual benefits while they are suspended. This includes any bonus payments.

Find out more about:

- [suspension during a work investigation](#)
- [medical suspension from work](#)

Holiday pay

When calculating holiday pay, employers must include:

- payments linked to doing tasks required in the contract
- payments related to professional or personal status, for example for length of service, seniority or professional qualifications
- other payments, for example, overtime payments if an employee has regularly been paid these during the last year

Any bonuses that fall into one of these categories must be included when calculating holiday pay.

For example, a bonus based on individual performance is likely to be included in the calculation. This is because it could be classed as a payment linked to the performance of tasks in the contract.

Employers must include any relevant payments in at least 4 weeks of holiday pay.

If an employer pays a bonus annually, they should divide the amount by 52. They should add this amount to the employee's basic salary when calculating a week's holiday pay.

Some employers might include these payments in the full 5.6 weeks' paid holiday (statutory annual leave), but they do not have to.

Bonuses that are not likely to be included

Some bonuses are not likely to be included when calculating holiday pay.

A contractual annual bonus that is linked to company performance only is unlikely to be included. This is because it is not based on the employee's performance of tasks in the contract.

Discretionary bonuses paid at a fixed sum to all workers are unlikely to be included. These payments are ones which are not linked to performance and are not regularly paid. For example, an end of year bonus that requires the employee to still be employed by the business when the payment is made.

[Find out more about holiday pay](#)