

## Understanding parental leave following the loss of a pregnancy or a child

This fact sheet provides guidance for **employees** who have experienced the loss of a pregnancy or a child, and for **employers** on how to offer compassionate, informed support while also meeting their legal obligations.

### Overview

Losing a pregnancy or child is a deeply personal and traumatic experience. In most cases, employees have leave entitlements to provide time away from work in these circumstances.

The types of leave available depend on the circumstances and how they are defined under the Fair Work Act. This may include situations such as [miscarriage](#), [stillbirth](#), birth-related complications or when a child does not survive the first 24 months of life (sometimes referred to as 'infant death').

### In the case of stillbirth or if a child does not survive the first 24 months of life

Eligible employees may be entitled to one or more of the following:

- unpaid parental leave (up to 12 months, or up to 24 months with employer agreement)
- Parental Leave Pay through the Australian Government and/or paid parental leave through their employer (if offered)
- compassionate leave (2 days per occasion).

### In the case of pregnancy loss (other than stillbirth)

Eligible employees may be entitled to:

- compassionate leave (2 days per occasion for a miscarriage before 20 weeks)
- unpaid special parental leave (if the employee is not fit for work because the pregnancy ends after 12 weeks other than by birth of a living child, and the child was not stillborn).

### Other types of leave available

Eligible employees may be able to access other leave entitlements depending on their circumstances, including:

- annual leave
- long service leave
- personal/carer's leave.

For more information on these leave types, visit [fairwork.gov.au/leave](https://fairwork.gov.au/leave)

## Unpaid parental leave

Eligible employees who experience a stillbirth or the loss of a child within the first 24 months of birth may be entitled to up to 12 months unpaid parental leave (or up to 24 months if their employer agrees).

Employers can't, because of a stillbirth or the loss of a child:

- require an employee to come back to work early
- cancel their unpaid parental leave
- refuse an eligible employee unpaid parental leave.

Eligible employees who experience a stillbirth can take unpaid parental leave even if prior notice wasn't given, as long as the employer is notified as soon as possible.

To check unpaid parental leave eligibility and notice requirements, visit [fairwork.gov.au/parentalleave](https://fairwork.gov.au/parentalleave)

## Returning to work early

An employee can agree with their employer to return to work from their unpaid parental leave earlier than planned.

Employees who experience a stillbirth or the loss of a child within the first 24 months of life can also:

- cancel their unpaid parental leave before it begins by giving written notice to their employer
- provide at least 4 weeks written notice that they wish to return to work on a specified day if returning after their leave has started.

## Pausing unpaid parental leave (due to premature birth or birth-related complications or illnesses)

An employee can agree with their employer to put their unpaid parental leave on hold if the child has to remain in hospital after birth or is hospitalised immediately after birth, including because:

- the child was born prematurely, or
- the child developed a complication or contracted an illness during gestation, at birth or following birth.

While their child is in hospital, parents can return to work without having this time deducted from their unpaid parental leave.

The employee's unpaid parental leave will resume on the earlier of:

- a time agreed with their employer
- the end of the day when the child is first discharged from hospital, or
- the end of the day if the child does not survive before being discharged.

## Unpaid special parental leave

An eligible pregnant employee is entitled to take unpaid special parental leave if they are not fit for work because their pregnancy ends after 12 weeks other than by birth of a living child. This type of leave doesn't apply in cases of stillbirth.

Employees must give their employer notice as soon as possible (which might be after the leave has started) and tell them how long they expect the leave will be. The employer can ask for evidence, for example a medical certificate.

## Compassionate leave

Employees are entitled to 2 days of paid compassionate leave per occasion (unpaid for casuals) if:

- a member of their immediate family or household dies, or contracts or develops a life-threatening illness or injury
- they have a stillbirth, or a child in their immediate family or household is stillborn
- they, or their current spouse or de facto partner, experience a miscarriage (the loss of a pregnancy before 20 weeks).

Compassionate leave can also be taken while on unpaid parental leave. For more information about compassionate leave, visit [fairwork.gov.au/compassionateleave](https://www.fairwork.gov.au/compassionateleave)

## Payment during parental leave

Some employees may be entitled to Parental Leave Pay through the Australian Government, or paid parental leave through their employer, or both.

### Australian Government Parental Leave Pay

Eligible employees may receive the Australian Government's Parental Leave Pay, which is based on the National Minimum Wage.

For more information about Parental Leave Pay and other available financial support, call Services Australia on 13 61 50 or visit their Parental Leave Pay page at [servicessaustralia.gov.au/parental-leave-pay](https://servicessaustralia.gov.au/parental-leave-pay)

### Employer funded paid parental leave

Many employers offer paid parental leave. This is generally set out in a relevant agreement, contract or workplace policy.

Employers who provide their employees with employer funded paid parental leave can't refuse or cancel this leave because of stillbirth or the loss of a child, unless an employee requests that it be cancelled, or if an exception applies.

For more information on employer funded paid parental leave, including the exceptions that apply, visit [fairwork.gov.au/employer-funded-ppl](https://www.fairwork.gov.au/employer-funded-ppl)

## Talking about leave, loss and returning to work

Employees have the right to take leave, be treated fairly, and return to their role, but navigating this time can feel overwhelming. There's no single or 'right' way to approach it, and best practice is to support individual needs with empathy and flexibility.

### During leave

Employees are entitled to take leave. This time can provide space to grieve, heal, and care for loved ones. Some may find comfort in returning sooner, while others need more time. Whatever the choice, feeling supported without pressure or assumptions is important.

### Returning to work

Employees have the right to return to the same or a comparable position after unpaid parental leave. Best practice is to work with the employee, and offering options such as a gradual return, flexible hours, or adjusted duties may help ease the transition.

### Creating a supportive environment

Employees have the right to a safe, fair workplace, including protection from pregnancy-related discrimination. Best practice includes setting boundaries around what is okay to share or discuss and having respectful conversations to clarify needs. Grief doesn't follow a timeline, so ongoing support may be needed long after the initial return.

## Support services

If you've experienced or have been impacted by the loss of a child, support is available.

Stillbirth Foundation Australia	Red Nose
Resources and support for parents, families, friends and colleagues who have experienced a stillbirth or are supporting someone through the impact of stillbirth.  Phone: 02 9557 9070 <a href="http://stillbirthfoundation.org.au">stillbirthfoundation.org.au</a>	Free, specialised bereavement support for any person affected by the sudden and unexpected loss of a baby or child during pregnancy, birth, infancy or childhood.  Phone: 1300 308 307 (24-hour grief and loss support) <a href="http://rednose.org.au/grief-and-loss-support">rednose.org.au/grief-and-loss-support</a>

## More resources

For information about applying for, taking, extending and returning from parental leave, visit [fairwork.gov.au/parentalleave](http://fairwork.gov.au/parentalleave)

Our free templates and checklists can assist employees and employers in recording parental leave requests, variations and extensions. Visit [fairwork.gov.au/templates](http://fairwork.gov.au/templates)

## Contact us

Fair Work online: [fairwork.gov.au](http://fairwork.gov.au)

Fair Work Infoline: **13 13 94**

### Need language help?

Contact the Translating and Interpreting Service (TIS) on **13 14 50**

### Help for people who are deaf or have hearing or speech difficulties

You can contact us through the National Relay Service (NRS).

Select your [preferred access option](#) and give our phone number: **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this resource is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.