

Refusal of request to extend unpaid parental leave beyond initial 12-month period – template letter

Who can use this template

Employers can use this template if they:

- have received a request from an employee wanting to extend their unpaid parental leave beyond their initial 12-month period under the Fair Work Act (FW Act)
- wish to refuse the employee's request, and
- have reasonable business grounds to do so.

Why use this template

Some employees have the right to request an extension of their unpaid parental leave under the FW Act.

If you have received this type of request and are considering refusing it, you need to follow certain rules when responding. It's important to get it right because penalties can apply for breaching these rules.

If you want to **approve** an employee's request, don't use this template. Instead, use our [Approval of extension of parental leave – template letter](#) available at fairwork.gov.au/templates

How to use this template

- **PART A** of this template is a checklist with information for employers. It includes an overview of the rules around responding to requests to extend unpaid parental leave. Use the checklist to help decide how to respond to a request and to help you follow the required steps.
- **PART B** of this template can be filled out once you have followed the steps in Part A and decided that you will refuse the request. Your response must be given to the employee **within 21 days** and communicate the reasons for refusal, including the reasonable business grounds for refusing the request.

We update our templates from time to time. Make sure you're using the [latest version](#) from fairwork.gov.au/templates

PART A – Information and checklist for employers

Entitlements to extend unpaid parental leave

Employees have rights under the [National Employment Standards](#) (NES) to extend unpaid parental leave. The amount of time they can extend their leave by depends on their original leave period and whether they are:

- extending leave within the first 12 months
- extending leave beyond the initial 12 months.

There are different rules for how to respond depending on whether the request is within the first 12 months or after. Make sure you've checked what applies. This template can only be used for refusing a request to extend leave beyond the initial 12 months.

Visit our [Parental leave section](#) at fairwork.gov.au/parentalleave



IMPORTANT

Check if an award or agreement applies

Before using this resource, check if an [award](#) or [agreement](#) applies to your workplace. If it does, check if it has terms about parental leave that are more beneficial to your employees than the NES. If so, those rules apply. Visit fairwork.gov.au/awards and fairwork.gov.au/agreements to find out more.

You should also check the terms of any employment contract or workplace policy about parental leave. If they're more beneficial than the NES, those apply.

Need more help with parental leave?

- Visit our [Parental leave section](#) at fairwork.gov.au/parentalleave
- Submit an enquiry online through [My account](#) at fairwork.gov.au/register

Check out our other resources



- Explore our [interactive template tools, downloadable templates and letters](#) available at fairwork.gov.au/templates
- Complete our [free online courses](#) available at fairwork.gov.au/learning to develop skills and strategies to help you at work.

The Fair Work Ombudsman is committed to providing you with advice that you can rely on.

The information contained in this template 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.

Checklist: Responding to a request to extend parental leave

Use the checklist to help you decide how to respond to a request to extend unpaid parental leave beyond the initial 12 months.

1 – Know the rules about the right to request an extension beyond the initial 12 months

An employee who is taking 12 months of unpaid parental leave can apply to extend their leave up to a further 12 months. The total period, with the extension, can't be more than 24 months from the date of birth or placement of the child.

The employee needs to give you a written request if they want to extend their unpaid parental leave beyond the initial 12 months. It needs to be given at least 4 weeks before the first 12 months of leave ends.

2 – Meet with the employee and consider alternatives

If you are thinking about refusing the request, you **must** first:

- discuss the request with the employee, and
- genuinely try to reach an agreement with the employee for an extension period.

As part of this conversation, you should take the time to understand the employee's circumstances. You can **only** refuse the request if you:

- were unable to reach an agreement about a period of extension
- have considered the consequences of refusing the request for the employee, and
- have reasonable business grounds to refuse.

Best Practice Tip: If you are unable to offer an extension of unpaid parental leave, consider if you can offer options for flexible working arrangements on an employee's return to work. Employees who are the parent or guardian of a child who is school aged or younger have a right to request flexible working arrangements.

For example, employees may want to transition their working hours over an agreed period (such as 2 days per week initially, increasing to 3 days for the next month), come back part-time, or work from home on some days. These types of arrangements can help employees as they settle their child into childcare and adjust as a working parent.

See our [Flexible working arrangements best practice guide](https://www.fairwork.gov.au/bestpracticeguides) at [fairwork.gov.au/bestpracticeguides](https://www.fairwork.gov.au/bestpracticeguides)

3 – Consider reasonable business grounds

You can **only** refuse a request if you have reasonable business grounds (and you have followed the required steps outlined at Step 2).

Reasonable business grounds will depend on the individual circumstances, including the nature and size of the business, the employee's role and duties and the requested arrangements.

Examples of reasonable business grounds for refusing a request could include:

- **Cost** – the extension of the period of unpaid parental leave would be too costly for your business.
- **Capacity** – there's no capacity to change the working arrangements of other employees to accommodate the extension.
- **Practicality** – it would be impractical to change the working arrangements of other employees, or take on new employees, to accommodate the extension.
- **Inefficiency or customer service impact** – the extension would be likely to result in significant loss in efficiency or productivity, or have a significant negative impact on customer service.

Remember, it's best to approach the situation with an open mind.

Best Practice Tip: If there are options for engaging temporary staff (to backfill the employee), consider whether this might be suitable and whether you might then be able to approve the request instead.

See our [Parental leave best practice guide](https://fairwork.gov.au/bestpracticeguides) at fairwork.gov.au/bestpracticeguides

□ 4 – Respond in writing

You must respond in writing **within 21 days** of the request.

If you are refusing the request, the written response **must** include:

- details of the reasons for refusal including an explanation of the reasonable business grounds for refusing the request and how these grounds apply to the request
- an alternative extension period of unpaid parental leave that you would be willing to agree to or state that there isn't an extension you can agree to
- information about the dispute resolution process set out in the FW Act (see Step 5).

You can use the below [TEMPLATE LETTER – Refusal of request to extend parental leave](#) to help you respond.

□ 5 – Know the dispute processes

The FW Act sets out a process for resolving disputes where an employee has made a request to extend unpaid parental leave beyond the initial 12 months and:

- their employer has refused their request, or
- 21 days have passed, and their employer has not given the employee a written response to their request.

In the first instance, you and your employee must try to resolve any disputes at the workplace level, by discussion.

If you and the employee can't resolve a dispute about a request to extend parental leave at the workplace level, the Fair Work Commission (the Commission) can assist with resolving the dispute. Either you or your employee can lodge an application with the Commission to deal with the dispute.

The Commission can deal with the dispute in a number of ways, including by conciliation or mediation and only in some circumstances by arbitration. If the Commission arbitrates the dispute, it has the power to make orders including that the employer grants the employee's extension request.

You and your employee may appoint someone as your representative to assist with the dispute resolution process.

For more information visit the [Fair Work Commission's website](https://www.fwc.gov.au/issues-we-help) at [fwc.gov.au/issues-we-help](https://www.fwc.gov.au/issues-we-help)



IMPORTANT

This template has been colour coded to help you to complete it. You simply need to replace the **red < > writing** with the information that applies to your situation. You should change all the text to **black** when you're finished.

The **purple writing** shows you extra explanatory information and should also be deleted.

You may wish to tailor some of the content to suit your business and the employee's circumstances, but you **must** still comply with the requirements for refusing a request and writing a refusal response (see **Part A**).

The Fair Work Ombudsman is committed to providing you with advice that you can rely on.

The information contained in this template 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.

PART B – TEMPLATE LETTER: Refusal of request to extend unpaid parental leave beyond initial 12 months

[Print on your business letterhead if applicable]

<Date>

Private and confidential

<Insert employee's full name>

<Insert employee's residential address>

Dear <Insert employee's name>

Your request to extend unpaid parental leave

I refer to your <letter/email> dated <insert date of request> where you requested to extend your unpaid parental leave to <insert new end date>.

Thank you for speaking with me on <insert date of conversation with employee> about your request.

As discussed, I am writing to advise that unfortunately we cannot accommodate your request for an extension of unpaid parental leave at this time due to business reasons. Specifically:

- <Insert reasons why the requested arrangements cannot be accommodated. You **must** detail the reasonable business grounds on which you have made this decision and how they apply to this request>.

[Your letter must include an alternative period you are willing to agree to, or if there isn't one, state that there isn't one.]

[Delete this section if not applicable] We are able to offer you the following alternative extension:

- <Insert details of alternate extension as discussed with employee>.

[Delete this section if not applicable] Unfortunately, we are not able to offer any extension to your parental leave.

[If you are unable to offer an extension, consider if you can offer options for flexible working arrangements on their return to work.]

[Delete this section if not applicable] As an alternative, we would be happy to discuss flexible working arrangements that could assist your return to work. You can find more information about [flexible working arrangements](https://www.fairwork.gov.au/flexibility) at [fairwork.gov.au/flexibility](https://www.fairwork.gov.au/flexibility)

If you do not agree with this decision, please contact <name and contact details of person to resolve disputes at a workplace level>. We will attempt to resolve your concerns by discussing them with you.

If we can't reach a resolution, we both have the right to lodge a dispute with the Fair Work Commission. The Commission can deal with disputes about requests to extend unpaid parental leave, including by arbitrating in some circumstances and making orders to resolve a dispute if it cannot be resolved at the workplace level.

[It's important to follow any orders that the Commission makes – penalties can apply for breaching these orders.]

You are able to appoint someone as your representative (such as a union) to assist with the dispute resolution process either at the workplace level or with the Commission.

For more information you can visit the [Fair Work Commission's website](https://www.fairwork.gov.au/issues-we-help) at [fwc.gov.au/issues-we-help](https://www.fairwork.gov.au/issues-we-help)

Please contact me on <insert phone number> if you have any questions.

Yours sincerely,

<Insert name>

<Insert position>

PLEASE KEEP A COPY OF THIS LETTER FOR YOUR RECORDS