

## Debate Pack

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By Andy Powell,

Fintan Codd

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# Introduction of paid miscarriage leave

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## Summary

There will be a [Backbench Business](#) debate on the 'Introduction of paid miscarriage leave' on Thursday 17 March 2022. The debate has been initiated by [Angela Crawley MP](#). This briefing contains background information, parliamentary and press material, as well as suggested further reading which Members may find useful when preparing for this debate.

# 1

## Background

There is no specific statutory right in the United Kingdom to maternity leave or pay for anyone who has experienced a miscarriage before 24 weeks of pregnancy.

This was confirmed in February 2022 by the Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy, Paul Scully, during a House of Commons debate on Employment Legislation:

There is no statutory entitlement to leave for women who lose a baby before 24 completed weeks of pregnancy, but those who are unable to return to work may be entitled to statutory sick pay, and women are protected against workplace discrimination due to any pregnancy-related illness, including illness caused by miscarriage. That protection extends to two weeks after the end of the pregnancy.<sup>1</sup>

Since 6 April 2020, parents have been able to take time off work if they have a stillbirth after 24 weeks of pregnancy. As explained in the [GOV.UK guidance on parental bereavement and leave](#), they must meet eligibility criteria of being both a parent, and an employee who is employed in Great Britain, and could get parental bereavement leave, statutory parental bereavement pay, or both.<sup>2</sup>

In January 2022, the Parental Bereavement Leave and Pay Bill passed its final stage in the Northern Ireland Assembly and will be introduced following Royal Assent later this year.<sup>3</sup> The [Explanatory and financial memorandum](#) reports that the legislation will “mirror the provisions in Great Britain”.<sup>4</sup> This Bill also brings in statutory support in the event of a miscarriage.<sup>5</sup> As [reported by the Northern Ireland Government](#), this provision will follow at a later date following a public consultation, but no later than April 2026.<sup>6</sup>

## Other relevant law

There may be other related legislation that is relevant to employees who experience a miscarriage. For example:

- In circumstances where an employee is deemed to be incapable of work, they may be able to claim statutory sick pay.<sup>7</sup>

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<sup>1</sup> HC Deb 22 February 2022, [Employment Legislation](#), c163

<sup>2</sup> [The Parental Bereavement Leave Regulations 2020](#)

<sup>3</sup> NI Department for the Economy, [Minister wins backing for Parental Bereavement Leave and Pay Bill](#), 7 February 2022

<sup>4</sup> Northern Ireland Assembly, [Parental Bereavement \(Leave and Pay\) Bill](#)

<sup>5</sup> [Parental Bereavement \(Leave and Pay\) Bill](#), article 112EF

<sup>6</sup> [Parental Bereavement \(Leave and Pay\) Bill](#)

<sup>7</sup> [The Statutory Sick Pay \(General\) Regulations 1982](#), Reg 2

- To the extent that any incapacity constitutes a disability under the Equality Act 2010, or exacerbates an existing disability, the employer would be required to make reasonable adjustments.<sup>8</sup>

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<sup>8</sup> [Equality Act 2010](#), Section 20

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## Press articles

[Lanarkshire politician disappointed by Government response to miscarriage leave debate](#)

Daily Record  
11 March 2022

[MP calls on UK Government to follow North Ireland's example and introduce paid miscarriage leave](#)

Glasgow World  
3 March 2022

[SNP petition calling for statutory miscarriage leave backed by 25,000 people](#)

Daily Record  
2 December 2021

[We now have a chance to guarantee paid leave for parents who experience a miscarriage](#)

Independent  
30 November 2021

['Support for miscarriages needs to be so much better': MPs back union's call for civil service pregnancy loss policy](#)

Civil Service World  
27 August 2021

[Black women face significantly higher risk of having miscarriage, research suggests: Researchers are calling for people in the UK to be given support after their first pregnancy loss](#)

Evening Standard  
27 April 2021

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# Press notices

## [Sands backs paid leave from work for parents after pregnancy loss](#)

Sands

20 October 2021

Sands is supporting a Bill to allow full paid time off work for parents who experience pregnancy loss.

The Labour MP Sarah Owen, who is leading on the Bill, says her new law will give both parents who suffer such trauma the automatic right to paid leave from work for at least a week, regardless of what time during a pregnancy a woman miscarries.

Since April 2020 all employed parents whose child dies (under the age of 18), or suffer a stillbirth from 24 weeks of pregnancy, have been entitled to a minimum of two weeks' paid leave under the Parental Bereavement Leave and Pay Act.

However, if a loss happens in the first 24 weeks of a pregnancy, there's no legal right to maternity or parental bereavement leave.

Owen, who serves as Vice Chair to the All Party Parliamentary Group on Baby Loss, has spoken in Parliament about her own experience of miscarriage at work before she was elected as an MP.

Sands Chief Executive Clea Harmer has welcomed the proposal.

Emotional and physical recovery from pregnancy loss does not have a time limit and employees should not feel judged or discriminated against when requesting time off to recover.

At Sands we believe leave following pregnancy loss should be statutory, and that all employees who have been affected should be entitled to a minimum two weeks leave on full pay.

Pregnancy loss and the death of a baby is an incredibly painful event that has a lasting physical and emotional impact. We welcome the support that this Ten-Minute Bill will give to those who experience it.

- Clea Harmer, Chief Executive of Sands

The Bereavement Leave and Pay (Stillborn and Miscarried Babies) Bill was introduced to Parliament by a Ten Minute Rule Motion on Tuesday 19th October. Its second reading is scheduled for 25th February 2022.

## **Employers urged to take our Pregnancy Loss Pledge**

### **Miscarriage Association**

**6th September 2021**

Our new campaign urges workplaces to commit to supporting employees through the distress of miscarriage.

We are encouraging businesses and organisations to take the Pregnancy Loss Pledge to ensure that staff experiencing pregnancy loss get the support and time off they need.

By taking the pledge, organisations agree to meet the M.A.'s standard, which asks that employers endeavour to create a supportive work environment, understand and implement the rules around pregnancy-related leave, have a policy or guidance in place and support people and their partners back to work.

At present, there is no statutory entitlement to paid leave for people who lose a baby before 24 weeks of pregnancy. From 24 weeks, the loss of a baby is legally a stillbirth and mothers are entitled to full maternity leave and both parents are entitled to two weeks of Parental Bereavement Leave.

While there is no legal right to paid time off for those experiencing miscarriage, absence for this reason is protected by pregnancy-related leave rules which mean it must be recorded separately to general sickness and cannot be used against them in any way.

However, a survey we carried out last year showed almost half of respondents felt they had to return to work before they were ready, with many not knowing or not being told about their right to pregnancy-related leave.

M.A. National Director Ruth Bender Atik explains: "Since we launched our workplace resources a year ago, it's been very heartening to see so many organisations, large and small, who are already committed to supporting their staff through what can be an extremely distressing experience. But we know there is more to be done and our aim is that every workplace acknowledges the impact of pregnancy loss and treats their staff with empathy and understanding."

Among the companies who have already signed the pledge are the Co-op, Zip financial services, North East-based housing association North Star and Milton Keynes-based Aira, a digital marketing agency.

You can read more about the pledge – and some of the companies who have taken it – [here](#).

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# Parliamentary material

### [Paid Miscarriage Leave](#)

House of Commons Westminster Hall Debate  
8 March 2022

### [Backbench Business Committee Representations: Backbench Debates](#)

Representations from Angela Crawley MP  
28 February 2022

### [Employment Legislation](#)

House of Commons Oral Question  
22 February 2022

#### **Asked by: Angela Crawley**

May I first express my thanks for the Minister's kindness to my partner and me when our son was born last month?

This week the Northern Ireland Assembly gave a commitment to legislate for miscarriage leave, and the Scottish Government have given a commitment to introduce three days' paid leave in the public sector. Will this Government give a commitment to introducing paid miscarriage leave in the Employment Bill?

#### **Answering member: Paul Scully | Department: Business, Energy and Industrial strategy**

I congratulate the hon. Member and her partner on their fantastic news. It was a pleasure to meet her to discuss her private Member's Bill on the subject that she has raised. We recognise that losing a baby at any stage is incredibly difficult, and we encourage employers to be compassionate. There is no statutory entitlement to leave for women who lose a baby before 24 completed weeks of pregnancy, but those who are unable to return to work may be entitled to statutory sick pay, and women are protected against workplace discrimination due to any pregnancy-related illness, including illness caused by miscarriage. That protection extends to two weeks after the end of the pregnancy.

### [Miscarriage leave in Northern Ireland](#)

**House of Commons Early Day Motion  
973 (session 2021-22)**

That this House congratulates the Northern Irish Assembly on passing legislation to allow paid leave for workers who have suffered a miscarriage; understands provisions to offer statutory paid leave for mothers and their partners should they experience baby loss before 24 weeks of pregnancy are contained in Article 112EF of the Parental Bereavement (Leave and Pay) Bill; notes the Bill passed its final stage in Stormont on 7th February 2022 and is

due to receive Royal Assent; appreciates that the provision for paid miscarriage leave will come into force no later than April 2026 following a public consultation; recognises that Northern Ireland will be the first place in Europe to introduce paid miscarriage leave in line with recent legislation in New Zealand and Australia; understands there are currently no specific statutory rights in the UK to allow paid leave for those who have experienced miscarriage, ectopic or molar pregnancy; and calls on the UK Government to introduce Paid Miscarriage Leave UK-wide in its proposed Employment Bill.

### Miscarriage leave and employment policy

House of Commons Early Day Motion  
665 (Session 2021-22)

That this House believes that the Government should introduce a policy of paid miscarriage leave; is aware that the Government has so far been hesitant to introduce such a policy; notes that, in the UK, two weeks parental bereavement leave and pay is in place after stillbirth, however there is no such support for anyone who has experienced a miscarriage before 24 weeks of pregnancy; understands that miscarriage is an extremely traumatic experience and that more support should be provided to families that experience such a loss; considers unacceptable the Government's position that Statutory Sick Pay or annual leave are adequate compromises for a specific miscarriage leave provision; recognises that the provision of paid miscarriage leave is in line with the need to develop a more proactive approach to workplace health and wellbeing as expressed in the Taylor review of modern working practices; assesses that this issue should be viewed under the Taylor review's ambition of fair and decent treatment in the workplace, including health and wellbeing protections in employment law which serves the wider public interest; and calls on the Government to include paid miscarriage leave in its upcoming Employment Bill.

### Compassionate Leave: Perinatal Mortality

House of Commons Written Answer  
13 January 2022

#### **Asked by: Barry Sheerman**

To ask the Secretary of State for Business, Energy and Industrial Strategy, what assessment he has made of the potential merits of extending entitlement to parental bereavement leave and pay to parents of babies miscarried or stillborn during early pregnancy.

#### **Answering member: Paul Scully | Department: Department for Business, Energy and Industrial Strategy**

The Government recognises that losing a child at any age is deeply upsetting, and in April 2020 we legislated to give parents who lose a child under the age of 18 a right to take up to two weeks off work in the 56 weeks following the

death of their child. This right extends to parents of babies stillborn after 24 completed weeks of pregnancy. In the Explanatory Memorandum published alongside the legislation, we committed to taking forward a review of the scheme's impact in 2025.

Individuals who do not feel able to return to work following a miscarriage before 24 weeks may be entitled to Statutory Sick Pay while off work. All employees are also entitled to 5.6 weeks of Annual Leave a year and many employers also offer 'Compassionate Leave'. We encourage employers to respond sensitively to each individual's specific needs.

### **MISCARRIAGE LEAVE BILL 2021-22**

House of Commons

3 December 2021

Motion for second reading. Objection taken. Bill to be read a second time on 18 March 2022.

### **Bereavement Leave and Pay (Stillborn and Miscarried Babies)**

House of Commons

19 October 2021

### **Baby Loss Awareness Week**

House of Commons Debate

23 September 2021

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## Further reading

### [Time off work for bereavement](#)

ACAS

22 February 2022

### [Miscarriage](#)

British Journal of Midwifery

February 2022

### [Time to rethink miscarriage bereavement leave in the UK](#)

BMJ Sexual & Reproductive Health 2022;48:70-71

### [17th International Review of Leave Policies and Related Research 2021,](#)

International Network on Leave Policies & Research

2021

### **Websites**

[All-Party Parliamentary Group on Baby Loss](#)

[Baby Loss Awareness Week Alliance](#)

[Miscarriage and the workplace](#) – Miscarriage Association

[Pregnancy Loss Pledge](#) – Miscarriage Association

[Sands](#) - leading stillbirth and neonatal death charity in the UK

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