

Debate Pack

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Fatalities in childbirth and statutory leave and pay

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1 Background

A Westminster Hall Debate has been scheduled for Wednesday 6 December on fatalities in childbirth and statutory leave and pay. The debate will be opened by Darren Henry, Conservative MP for Broxtowe.

1.1 Parental leave in cases of child death or stillbirth

Statutory Parental Bereavement Leave and Pay

In cases where a child dies before the age of 18, or where a baby is stillborn, both parents are entitled to take up to two weeks of paid Statutory Parental Bereavement Leave.

This right was introduced by regulations passed under the Parental Bereavement (Leave and Pay) Act 2018.¹ This had originally been a Private Member's Bill introduced by Conservative MP Kevin Hollinrake, now Minister for Enterprise, Markets and Small Business.

These rights came into force on 6 April 2020 in Great Britain. They apply where a child dies before they turn 18 or where someone pregnant suffers a stillbirth after 24 weeks of pregnancy.

Statutory Parental Bereavement Leave and Pay are available to employees who are the baby's biological or adoptive parents or the partner of such a parent. Leave is available to all such employees from day one of employment. Pay is only available to employees who have been in continuous employment for 26 weeks with their employer and earn at least £123 per week on average before tax.²

Eligible parents can take up to two weeks of leave for each child who has died or was stillborn, starting anytime from the date of the death or stillbirth and finishing within 56 weeks of the date of the death of stillbirth. It can be taken in blocks of one week at a time. Employees must notify their employer of their intention to take leave and complete a declaration to claim statutory parental bereavement pay. Statutory bereavement pay is paid at a rate of £172.48 a week or 90% of average weekly earnings (whichever is lower).³

¹ Specifically the [Parental Bereavement Leave Regulations 2020](#) and the [Statutory Parental Bereavement Pay \(General\) Regulations 2020](#)

² [Statutory Parental Bereavement Pay and Leave](#), GOV.UK [accessed 4 December 2023]

³ As above

Other parental leave in cases of stillbirth or neonatal death

In addition to Statutory Parental Bereavement Leave and Pay, parents may still be entitled to take ordinary forms of parental leave in cases of stillbirth or neonatal death. The charity Maternity Action has a guidance page [Miscarriage, stillbirth and neonatal death – rights to time off and pay](#) which explains how these rights operate in such cases.

In general, a miscarriage before 24 weeks of pregnancy will not entitle parents to any parental leave rights. However, after the 24th week of pregnancy a loss of the child will lead to a stillbirth certificate which will entitle the parents to the same full allowance of Maternity Leave, Statutory Maternity Pay, Maternity Allowance, Paternity Leave and Statutory Paternity Pay that they would otherwise have been entitled to. The same is true if the child is born alive but subsequently dies.⁴

Similarly, where notice of the intent to take Shared Parental Leave has been given before the stillbirth or death of the child, it can still be taken. However, according to Maternity Action, “Parents are not entitled to book shared parental leave following the death of their child”.⁵

1.2

Parental leave in cases of maternal death

Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) allows the birth parent (or adopting parent) to curtail the amount of Maternity Leave and Statutory Maternity Pay or Maternity Allowance (or Statutory Adoption Leave and Pay) that they would have been eligible for, and instead transfer that balance to the other parent. Up to 50 weeks of leave and up to 37 weeks of pay can be shared in this way.⁶

To be eligible to receive SPL and ShPP someone must have been continuously employed by the same employer for at least 26 weeks by the end of the 15th week before the baby’s due date.⁷

As noted by the Advisory, Conciliation and Arbitration Service (Acas) in their [guidance on planning to take SPL and ShPP](#), these can still be taken even if the birth parent dies in childbirth or afterwards:

If a parent is eligible for shared parental leave and the other parent dies, they can:

⁴ Maternity Action, [Miscarriage, stillbirth and neonatal death – rights to time off and pay](#), February 2023

⁵ As above

⁶ [Shared Parental Leave and Pay](#), GOV.UK

⁷ As above

- still take shared parental leave as planned
- transfer and use any shared parental leave due to be taken by the parent who died⁸

In such cases, the amount of leave the surviving partner can take is 52 weeks, and the amount of pay is 39 weeks, minus the number of weeks already taken by the birth parent or adopting parent before their death.⁹

The eligibility rules for taking SPL and ShPP do not change in cases where one parent dies – the other parent must still meet them qualifying period of employment condition in order to take the leave and pay.

Shared Parental Leave and Pay (Bereavement) Bill 2022-23

On 20 December 2022 Darren Henry MP (Con) introduced a Private Member's Bill, the [Shared Parental Leave and Pay \(Bereavement\) Bill](#), under the [Ten Minute Rule](#). The Bill's long title was:

A Bill to make provision about shared parental leave and pay in certain cases where one or both of a child's parents has died; and for connected purposes.¹⁰

The Bill, as introduced, would have removed the qualifying employment condition on taking SPL and ShPP where the birth mother or adopting parent had died.

The Bill did not receive a second reading and fell at the end of the 2022-23 parliamentary session.

⁸ Acas, [Shared parental leave and pay: Planning leave](#), 11 October 2023

⁹ BEIS, [Shared Parental Leave and Pay: Employers' technical guide](#) (PDF), April 2020, p54

¹⁰ [Shared Parental Leave and Pay \(Bereavement\) Bill 2022-23](#)

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Press articles

The following is a selection of news and media articles relevant to this debate.

Please note: the Library is not responsible for either the views or the accuracy of external content.

[Clydebank woman in call for more support for parents experiencing baby loss](#)

Clydebank Post
15 November 2023

[Opinion: Grief can take us to the darkest of places - why don't we take it seriously?](#)

Natalie Morris
The Guardian
2 August 2023

[Nottinghamshire dad 'not eligible' for paternity leave despite death of his wife during childbirth](#)

ITV NEWS
29 November 2022

[Glasgow Council becomes third local authority to offer paid miscarriage leave](#)

Personnel Today
2 September 2022

[Quarter of workers feel unsupported after bereavement](#)

Personnel Today
1 July 2022

[Parental bereavement leave is the right direction but it's not enough](#)

Newsletter
23 February 2022

[Money worries forced bereaved staff back to work far too soon, report shows](#)

inews
6 October 2021

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Press releases

[UK set to introduce 'Jack's Law' – new legal right to paid parental bereavement leave](#)

Department for Business, Energy & Industrial Strategy (now Department for Business and Trade)

23 January 2020

4 Parliamentary material

4.1 Parliamentary questions

House of Commons written question 4706

| 4706

Asked by: Rachael Maskell

To ask the Secretary of State for Health and Social Care, what recent assessment has she made of the availability of bereavement services for (a) adults and (b) children and young people.

Answering member: Department of Health and Social Care | Department:
Named day

Bereavement Support Payment

23 October 2023 | 201564

Asked by: Julian Sturdy

To ask the Secretary of State for Work and Pensions, what assessment he has made of the potential merits of introducing discretionary payments for bereavement support.

Answering member: Mims Davies | Department: Department for Work and Pensions

No assessment has been made, however, the Department already has a wide range of financial support available to those affected by bereavement.

Bereavement Support Payment (BSP) is a contributory benefit intended to help working age people with the immediate costs of bereavement. BSP is payable to the surviving spouse, cohabiting partner (with dependent children), or civil partner of the deceased. Funeral Expenses Payments contribute towards the cost of a funeral arranged by someone in receipt of income-related benefits, and Budgeting Loans and Budgeting Advances are interest-free loans available to claimants of income-related benefits. Further support for day to day living expenses is available via Universal Credit.

Compassionate Leave

13 July 2021 | 27195

Asked by: Kirsten Oswald

To ask the Secretary of State for Business, Energy and Industrial Strategy, if he will introduce statutory bereavement leave for the loss of an immediate family member or partner.

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

Since April 2020, parents who lose a child under the age of 18 have a right to take up to 2 weeks of paid leave in the 56 weeks following the death of their child. This right extends to parents of babies who are stillborn after 24 complete weeks of pregnancy. We have not assessed the potential merits of extending entitlements to bereavement leave and pay to other groups, and it is too early to conduct a formal evaluation of the Parental Bereavement Leave and Pay scheme.

We recognise that the death of a close family member, friend, or colleague can be deeply upsetting. The Government believes that individuals are best placed to understand their own specific needs and we encourage their employers to respond in an appropriate and sensitive way.

Although there is no statutory entitlement to bereavement leave for employees who lose a close relative who is not a child, all employees have a 'day 1' right to take unpaid time off work to deal with an emergency involving a dependant. This entitlement can be used, for example, to make arrangements for the funeral.

Individuals who do not feel able to return to work following a bereavement may be entitled to Statutory Sick Pay whilst they are off work. All employees are also entitled to 5.6 weeks of Annual Leave a year.

Many employers offer 'Compassionate Leave' in these circumstances and we encourage employers to respond sensitively to each individual's specific needs.

Parental Leave

2 November 2022

Asked by Darren Henry

I was visited at one of my surgeries by my constituent, Aaron Horsey. In his arms was his three-week-old newborn baby, Tim. Aaron's wife Bernadette tragically passed away while giving birth to Tim. Aaron came to see me regarding the disparity that exists over shared parental leave. The current eligibility requirements differ between those for a surviving birthing partner and those for a surviving non-birthing partner. This meant that, in his case, he was not entitled to leave to raise his son. Will the Prime Minister ensure that my constituent and I can meet the relevant Minister to make sure that we move towards a future where parents are not in this position?

Prime Minister's questions – Supplementary

I know that the whole House will join me in extending our condolences to Aaron following the tragic loss of his wife, and I thank my hon. Friend for raising this issue. Employed parents can benefit from statutory support depending on personal circumstances, and I am concerned to hear that that is not happening in this case. I will of course ensure that he gets a meeting with the relevant Minister as soon as possible to resolve this issue.

Bereavement Leave

29 January 2021 | 140741

Asked by: John McDonnell

To ask the Secretary of State for Business, Energy and Industrial Strategy, what plans he has to introduce rights to statutory bereavement leave for workers.

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

We recognise that the death of a close family member, friend, or colleague can be deeply upsetting. The Government believes that individuals are best placed to understand their own specific needs and we encourage their employers to respond in an appropriate and sensitive way.

Recognising that the death of a child is particularly tragic, in April 2020 we introduced a new statutory entitlement to Parental Bereavement Leave and Pay for parents who lose a child under the age of 18. Although there is no statutory entitlement to bereavement leave for employees who lose a close relative who is not a child, all employees have a 'day 1' right to take unpaid time off work for an emergency involving a dependant.

Occupational Health: Bereavement Counselling

20 November 2020 | 114218

Asked by: Dr Philippa Whitford

To ask the Secretary of State for Business, Energy and Industrial Strategy, what guidance his Department has published for employers helping to meet the support needs of bereaved employees.

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

The Government has published several sets of guidance to help employers support the need of bereaved employees.

In 2014, the Department for Business, Innovation and Skills commissioned the Advisory, Conciliation and Arbitration Service (Acas) to publish guidance on how to manage bereavement in the workplace. The guidance was first published in 2014 and last updated in May 2018

(<https://archive.acas.org.uk/media/4114/Managing-bereavement-in-the-workplace---a-good-practice-guide/pdf/Managing-bereavement-in-the-workplace-a-good-practice-guide.pdf>(opens in a new tab)).

Earlier this year, the Department introduced this year a new entitlement to Bereavement Leave and Pay for employees who lost a child. Guidance was published on GOV.UK in April 2020 to help employers managing this new policy (<https://www.gov.uk/employers-parental-bereavement-pay-leave>).

4.2

Debates

Support for Bereaved Children

14 September 2023 | House of Commons | 737 cc1061-1076

Motion that this House calls on the Government to develop a protocol for ensuring that bereaved children are made aware of and have access to practical and emotional support through public and third sector agencies. Agreed to on question.

Shared Parental Leave and Pay (Bereavement)

20 December 2022 | House of Commons | 725 cc172-174

Ten minute rule motion for leave to bring in a Bill. Agreed to on question. Presentation and first reading (Bill 221). To be read a second time on 20 January 2023.

Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020

23 March 2020 | House of Lords | 802 cc476GC-478GC

Lords motion to consider. Agreed to on question.

Parental Bereavement Leave Regulations 2020

03 March 2020 | House of Lords | 802 cc297GC-304GC

Lords motion to consider. Agreed to on question.

Parental Bereavement (Leave and Pay) Bill

11 May 2018 | House of Commons | 640 cc1014-1080

Report stage. Amendment 1, discussed with other amendments, debated and withdrawn. Third reading. Queen's consent signified. Agreed to on question. Bill read the third time and passed.

4.3 Statements

Bereavement Benefits (Remedial) Order 2023

8 February 2023 | HCWS550

Parental Bereavement Leave and Pay

4 February 2020 | HCWS90

4.4 Early Day Motions

Statutory paid bereavement leave for all

EDM 124 (session 2021-22)

Patricia Gibson (20 supporters)

That this House calls for the extension of statutory paid bereavement leave to all employees upon the loss of a close family member, following the welcome introduction of paid bereavement leave for parents on the loss of a child up to the age of 18 years old; notes research showing that grief experienced by employees costs the economy £23 billion per year, and costs the Treasury nearly £8 billion per year; acknowledges that whilst some employers offer compassionate leave for staff who have lost a close relative, does not believe that this such leave should be at the discretion of employers; is aware that many bereaved employees face financial pressures to return to work while coping with grief; acknowledges that bereavement can trigger mental health conditions such as depression, anxiety and post-traumatic stress disorders, as well as being linked to physical health issues challenges such as increased likelihood of heart attacks, diabetes and increased mortality; believes that while bereavement is a fact of life, by providing the necessary support at the right time, we could boost the economy and have a healthier society with a greater sense of wellbeing at its heart; and therefore calls for the Government to act urgently to extend the right to statutory paid bereavement leave to all employees who lose a close family member or partner.

5 Further reading

5.1 Guidance

[Shared Parental Leave and Pay](#)

GOV.UK

[Statutory Parental Bereavement Pay and Leave](#)

GOV.UK

[Time off work for bereavement: Leave and pay when someone dies](#)

Advisory, Conciliation and Arbitration Service

[Time off for dependants](#)

Advisory, Conciliation and Arbitration Service

5.2 Government reports

[Parental bereavement leave and pay: government response](#)

Department for Business, Energy & Industrial Strategy
November 2018

[Consultation on parental bereavement leave and pay](#)

Department for Business, Energy & Industrial Strategy
March 2018

5.3 Other reports

[Respecting and supporting grief at work How employers can better support their staff through personal loss](#) (PDF)

Marie Curie
September 2021

5.4

Webpages and blogs

[Compassionate leave: What are the rules?](#)

Breathe

2 February 2022

[Losing your partner or child in pregnancy](#)

NHS.UK

12 November 2021

[Supporting your employees and colleagues through bereavement](#)

Marie Curie

[accessed 4 December 2023]

[Bereavement Leave and Pay Act](#)

Bliss

[accessed 4 December 2023]

[Miscarriage, stillbirth and neonatal death – rights to time off and pay](#)

Maternity Action

February 2023

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