



BRIEFING PAPER

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Registration of stillbirth

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Summary

This briefing paper deals with the position in England and Wales unless otherwise specifically stated.

Registration of birth and subsequent death of baby born alive

The birth of a baby who is born alive must be registered, whatever the length of the completed pregnancy. The death of a baby born alive must be registered in the same way as any other death.

Registration of stillbirth after 24 weeks of pregnancy

When a baby is stillborn (born dead) after 24 weeks of pregnancy, the stillbirth must be registered in the stillbirth register. The process for registering a stillbirth combines features of both birth and death registration.

Stillbirth before 24th week of pregnancy

There is no provision to allow the registration of stillbirths before the 24th week of pregnancy. The charity Sands (Stillbirth and Neonatal Death charity) provides forms of certificate that healthcare staff may use or adapt in these circumstances.

Calls for change

For some time, calls have been made, both inside and outside of Parliament, for the law to be changed to enable registration of stillbirth before 24 weeks of pregnancy.

Tim Loughton (Conservative) has spoken of the arbitrary nature of the 24-week threshold. He highlighted one case where twins had been stillborn either side of the threshold and were treated differently for registration purposes.

The Government's stated position has been that it did not plan to change the definition of stillbirth, which is based on clinical evidence and the age of viability.

Civil Partnerships, Marriages and Deaths (Registration Etc.) Act 2019

Section 3 of the Civil Partnerships, Marriages and Deaths (Registration Etc.) Act 2019 requires the Secretary of State to "make arrangements for the preparation of a report on whether, and if so how, the law ought to be changed to require or permit the registration of pregnancy losses which cannot be registered as still-births under the Births and Deaths Registration Act 1953". The Secretary of State must publish the report prepared under this section. This Act started as a Private Member's Bill introduced by Tim Loughton.

The Pregnancy Loss Review

In March 2018, the Department of Health and Social Care established the Pregnancy Loss Review. The purpose of the Review is to consider:

- The impact on families of the current threshold of 24 weeks gestation before being able, formally, to register a miscarriage if they so wish.
- Whether it would, on balance, be beneficial to look at legislative options to amend existing primary legislation to allow parents to register a miscarriage if they so wish.
- Options to improve NHS gynaecology and maternity care practice for parents who experience a miscarriage and other causes of baby loss.

In May 2019, in answer to a written Parliamentary question, the Government indicated that "the Department expects to publish the Review report by the end of the year".

1. Registration of live births

The birth of a baby who is born alive must be registered, whatever the length of the completed pregnancy.

If a baby lives for even a short time after being born, and then dies, both the birth and death must be registered.¹

A neonatal death generally means a death within the first 28 days of life. This is distinguished from a stillbirth, where there are no signs of independent existence.

¹ Births and Deaths Registration Act 1953

2. Registration of stillbirth

2.1 Definition of “stillborn child”

The definition of “stillborn child” in England and Wales is contained in the *Births and Deaths Registration Act 1953* section 41 as amended by the *Stillbirth (Definition) Act 1992* section 1(1) and is as follows:

“a child which has issued forth from its mother after the 24th week of pregnancy and which did not at any time breathe or show any other signs of life”.²

Similar definitions apply in Scotland³ and Northern Ireland.⁴

2.2 Registration of stillbirth after 24 weeks of pregnancy

When a baby is stillborn (born dead) after 24 weeks pregnancy, the stillbirth must be registered in the stillbirth register. The process for registering a stillbirth combines features of both birth and death registration.

Information about how to register a stillbirth is available on the following websites:

- [Gov.UK, Register a stillbirth](#) (England and Wales);⁵
- [National Records of Scotland, Registering a stillbirth](#) (Scotland);⁶
- [NIDirect, Registering a stillbirth](#) (Northern Ireland).⁷

2.3 No registration of stillbirth before 24 weeks of pregnancy

There is no provision to allow the registration of stillbirths before the 24th week of pregnancy.

The charity Sands (Stillbirth and Neonatal Death charity) provides forms of [certificate](#) that health care staff may use or adapt for a baby born dead before 24 weeks pregnancy.

2.4 Guidance

The Royal College of Obstetricians and Gynaecologists’ good practice note, [Registration of stillbirths and certification for pregnancy loss before 24 weeks of gestation](#), includes a statement on the interpretation and implementation of registration law:

...the legal advisors for the Department of Health and the Office for National Statistics have agreed that a fetus that is expelled

² Previously the threshold had been 28 weeks

³ Section 56(1) of the *Registration of Births, Deaths and Marriages (Scotland) Act 1965*, as amended by the *Stillbirth (Definition) Act 1992*

⁴ *Births and Deaths Registration (Northern Ireland) Order 1976*, as amended by the *Stillbirth (Definition) (Northern Ireland Order) 1992*

⁵ Gov.UK, [Register a stillbirth](#), [accessed 12 August 2019]

⁶ National Records of Scotland, [Registering a stillbirth](#) [accessed 12 August 2019]

⁷ Nldirect, [Registering a stillbirth](#) [accessed 12 August 2019]

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after 24 weeks of pregnancy, provided it was no longer alive at the 24th week of pregnancy (this fact being either known or provable from the stage of development reached by the dead fetus), does not fall within the category of births to be registered as stillbirths under the above Acts. This interpretation is also accepted by the General Register Office for Scotland and the General Register Office for Northern Ireland.⁸

The Practice Note also includes a number of questions and answers.

⁸ Royal College of Obstetricians and Gynaecologists, [Registration of stillbirths and certification for pregnancy loss before 24 weeks of gestation](#), Good Practice No 4, January 2005

3. Civil Partnerships, Marriages and Deaths (Registration Etc.) Act 2019

3.1 The Act

[Section 3](#) of the Civil Partnerships, Marriages and Deaths (Registration Etc.) Act 2019 (the Act) requires the Secretary of State to “make arrangements for the preparation of a report on whether, and if so how, the law ought to be changed to require or permit the registration of pregnancy losses which cannot be registered as still-births under the Births and Deaths Registration Act 1953”.

The Secretary of State must publish the report prepared under this section.

3.2 Debate on the preceding Bill

The Act started as a Private Member’s Bill introduced by Tim Loughton (Conservative), who came fifth in the Private Members’ Bill ballot which took place in June 2017. In July 2017, he introduced the [Civil Partnerships, Marriages and Deaths \(Registration Etc.\) Bill 2017-19](#) (the Bill).⁹ Information about the Bill is provided on the [Bill page on the Parliament website](#).

Another Library briefing paper provides further information:

[Commons Library analysis: Civil Partnerships, Marriages and Deaths \(Registration Etc.\) Bill](#) (CPB 08217).

Second reading

At Second Reading, Tim Loughton set out the purpose of Clause 3:

The Bill will simply require the Government to hold a review of how we can do better and come up with a simple scheme that could have a huge impact on many grieving parents. It has nothing to do with changing the law on abortion, and that debate is for another day and another piece of legislation. I have deliberately not been prescriptive about what form the review should take, but I trust the Government to do the right thing here and I think we are pushing at an open door.¹⁰

Shadow Home Office Minister, Karen Lee, said, “We agree that stillbirths that occur before 24 weeks should be formally acknowledged and registered, but by no means would we want to see such a measure used to undermine abortion rights and a woman’s right to choose”.¹¹

Junior Home Office Minister, Victoria Atkins, acknowledged the range of views on the subject, and welcomed the proposed review:

Currently, parents whose babies are stillborn after 24 weeks’ gestation can register the baby’s name and receive a certificate of

⁹ [HC Deb 19 July 2017 c875](#)

¹⁰ [HC Deb 2 February 2018 c1108](#)

¹¹ [HC Deb 2 February 2018 c1115](#)

registration of stillbirth. When a pregnancy ends before 24 weeks' gestation, however, there is currently no formal process for parents to be able to register their loss legally. Some expectant parents find this to be not just distressing but devastating. The Department of Health and Social Care recognises the need to do more to support families affected by a miscarriage. Some families may want their loss to be acknowledged and registered. Others, however, may feel distressed at any mandatory requirement to do so in the circumstances of their grief. This issue must therefore be approached with great care and sensitivity.

Accordingly, I am pleased that clause 3 will provide for the Government to review this issue and to look at whether current law on registration of stillbirths should be changed to allow for the registration of pregnancy loss before 24 weeks' gestation. As part of this review, we will seek views and evidence from all interested parties. I hope that colleagues across the House will contribute to that review.¹²

Public Bill Committee

In Public Bill Committee, Tim Loughton expressed some reservations about the focus of the review started by the Government,¹³ and reiterated the purpose of the Bill:

I am very clear that we need to do something specifically for women who have given birth but it happens to be before 24 weeks. We probably need to do more for the many more women who have had pregnancy loss through miscarriage, at whatever stage. I know that other measures are being looked at...but I am focusing on the experiences of women who have given birth to children who, alas, are not alive when they are born. That is a different experience. Having a baby loss at any stage is hugely traumatic. I am not in any way trying to undermine the tragedy of everybody's loss. The problem here is that, simply because of the way the law is figured and the chronology, which is part of the law, many children who would otherwise have been registered and acknowledged do not exist in the eyes of the state.¹⁴

Victoria Atkins confirmed the Government's support for a report on the issue of registration:

Registration and certification can be an important part of acknowledging a pregnancy loss, and that is why the Government fully support the need to look into the issue more closely.

(...)

We support the requirement in this clause that a report is prepared before we consider any changes, because of the obvious sensitivities involved. In conducting this review, the Government are engaging closely with health practitioners, registrars and charities. Most importantly, the review is speaking to parents who have lost a baby before 24 weeks, to learn about their experiences and how to ensure that they receive the best care and support possible when such a tragedy takes place.¹⁵

¹² [HC Deb 2 February 2018 cc1123-4](#)

¹³ See the next section of this briefing paper

¹⁴ [PBC Deb 18 July 2018 c23](#)

¹⁵ [PBC Deb 18 July 2018 cc26-7](#)

Tim Loughton hoped that Government action would follow the proposed report:

The clause only commits to having a report at this stage, but there is an expectation that the Government will want to turn that report into legislative change—into action—to complement the good work that is going on to prevent anybody from being in the iniquitous position of realising that their child is not officially recognised by the state, by substantially reducing the number of stillbirths and miscarriages.¹⁶

4. Pregnancy loss review

4.1 The Pregnancy Loss Review

In March 2018, the Department of Health and Social Care established the [Pregnancy Loss Review](#).¹⁷ The terms of reference of the Review are available on the Gov.UK website:

[The Pregnancy Loss Review: Care and Support when Baby Loss Occurs Before 24 Weeks Gestation](#).¹⁸

The purpose of the Review is to consider:

- The impact on families of the current threshold of 24 weeks gestation before being able, formally, to register a miscarriage if they so wish.
- Whether it would, on balance, be beneficial to look at legislative options to amend existing primary legislation to allow parents to register a miscarriage if they so wish.
- Options to improve NHS gynaecology and maternity care practice for parents who experience a miscarriage and other causes of baby loss.¹⁹

4.2 Progress of the Review

In May 2019, in answer to a written Parliamentary question, the Government indicated that “the Department expects to publish the Review report by the end of the year”.²⁰

¹⁷ Gov.UK, [Pregnancy Loss Review Group](#) [accessed 12 August 2019]

¹⁸ March 2018

¹⁹ Department of Health and Social Care, [The Pregnancy Loss Review: Care and Support when Baby Loss Occurs Before 24 Weeks Gestation Terms of Reference](#), March 2018, p2, paragraph 1.3

²⁰ [PQ 254710 \[on Perinatal Mortality\]](#), 20 May 2019

5. Previous calls for change

For some time, calls have been made, both inside and outside of Parliament, for the law to be changed to enable registration of stillbirth before the threshold of 24 weeks gestation.

5.1 Parliamentary debate

Tim Loughton raised the issue on several previous occasions, including:

- In January 2014, he introduced a Private Members' Bill under the Ten Minute Rule, the [Registration of Stillbirths Bill 2013-14](#).²¹ On 14 January 2014, at First Reading, Tim Loughton said that the definition of stillbirth would be based on the experience of giving birth:

My Bill would provide for the official registration of stillborn babies below 24 weeks' gestation. It would not be based on a crude time threshold of what is deemed a viable foetus, but on the experience of giving birth.²²

This Bill did not proceed any further.

- On 13 October 2016, in a debate on [Baby Loss](#), Mr Loughton spoke of the arbitrary nature of the 24 week threshold:

If someone happens to give birth to a stillborn child after 23 weeks, six days and 23 hours, that child never existed in the eyes of the state and is to all intents and purposes a miscarriage. If that child had clung on for another couple of hours and been stillborn beyond the 24-week threshold, it would be a child in the eyes of the state. That is an extraordinary anomaly in the law which we need to address.²³

Tim Loughton highlighted one case where twins had been stillborn and were treated differently for registration purposes:

...[a woman had] twins, one of whom was stillborn before 24 weeks. The other survived and was tragically born stillborn after 24 weeks, but in the eyes of the law she only had one baby. How absurd is that? That is why the law needs to be changed.

That stark difference surely cannot be right. It adds insult to the unimaginable pain that the parents have already had to suffer.²⁴

5.2 Petitions

There have been several petitions on the issue, including, for example:

Change.org

- [Allow registered birth certificates for children born from 20 weeks](#)
– received 372,040 signatures.

²¹ Bill 153 of 2013-14

²² [HC Deb 14 January 2014 c728](#)

²³ [HC Deb 13 October 2016 c505](#)

²⁴ Ibid

UK Government and Parliament Petitions

- [The rights of all stillborn babies to be given a proper birth certificate and a death certificate regardless of gestation and better support](#) – petition closed on 12 August 2012 with 1,245 signatures;
- [Birth and death certificates to be given to parents of stillborns from 21 weeks](#) - petition closed on 11 August 2016 with 2,679 signatures;
- [Amend the Births and Deaths Registration Act 1953 to include all pregnancy loss](#) - petition closed early on 3 May 2017, because of General Election, with 10,850 signatures.

5.3 The Government's position

The Government's stated position has been that it did not plan to change the definition of stillbirth, because medical opinion did not support reducing the age of viability below 24 weeks of gestation, on which the definition is based.²⁵

²⁵ [PQ 29604 \[on Perinatal Mortality\], 11 March 2016](#)

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