

# Response to Consultation on Parental Bereavement Leave and Pay

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### **The Royal College of Midwives' response to consultation on Parental Bereavement Leave and Pay**

The Royal College of Midwives (RCM) is the trade union and professional organisation that represents the vast majority of practising midwives in the UK. It is the only such organisation run by midwives for midwives. The RCM is the voice of midwifery, providing excellence in representation, professional leadership, education and influence for and on behalf of midwives. We actively support and campaign for improvements to maternity services and provide professional leadership for one of the most established clinical disciplines.

The RCM welcomes the opportunity to respond to this consultation and our views are set out below.

We note that the entitlement set out in this consultation paper would in our view be a minimum standard and the RCM would expect local policies to be more generous and flexible than the proposed legislation, for example including longer and more flexible periods of leave at full pay. We also note that for midwives and maternity support workers the setting which they work may make it particularly difficult to return to work and we would therefore expect employers to work closely with trade unions in supporting bereaved employees following the loss of their child.

We welcomed the introduction on the Children's Funeral Fund to cover the cost of burial/cremation this year but the cost of funerals continues to rise with Sunlife finding that the average cost of a basic funeral in 2017 was £4,078.<sup>1</sup> Parents grieving following the loss of their child should not have to worry about the financial cost of being away from work.

The consultation does not consider flexible working. We would expect that employers should in addition be required to consider temporary changes to employment arrangements such as flexible working/reasonable adjustments if requested by the employee.

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<sup>1</sup> How much does a funeral cost in the UK today? Sunlife, 2017. URL: <https://www.sunlife.co.uk/how-much-does-a-funeral-cost-in-the-uk-today>

1. Definition of 'Bereaved Parent'

The definition should include both biological parents and those with parental responsibility but also take into account the fact that many children live in more than one family home where there is joint custody or shared parenting arrangements including step-parents. Kinship carers (when a child lives full-time or most of the time with a relative or friend who isn't their parent, usually because their parents aren't able to care for them) should also be included.

The definition should also not be restricted to children under the age of 18. Changing the definition of "child" to a son or daughter of any age would allow all bereaved parents time to grieve away from work, regardless of the age of their child.
2. Which of the following options for leave-taking would be most appropriate?

The Loss Foundation states that 'each person's grief is unique to them and to each lost relationship' and that it is not uncommon for acute grief to re-emerge particularly around the time of significant events, such as holidays, birthdays, anniversaries, another loss, or a particularly stressful time.<sup>2</sup> It is therefore important that there is maximum flexibility in how leave is taken. Consideration should be given to including leave in units of days where necessary, we would urge HMRC to seek a solution allowing for one day periods of leave to be taken without losing pay. Indeed ACAS good practice guidance states, 'Grief does not have predicted stages and phases. Everyone reacts differently to bereavement, and this should be understood and respected by both employers and colleagues'.<sup>3</sup>
3. The window within which to take 2 weeks of leave and pay. What do you think is the optimal length for the window?

The RCM would like to see a 56 week period in which to take the leave, supporting both Sands and TUC evidence. This is in order that where acute grief re-emerges around the time of significant events parents are still able to access the leave. Grief can at times lead to anxiety or depression and it is important that in this instance a period of sickness absence is appropriate, however this should not affect the individuals ability to access parental bereavement leave and pay. Employers should also look to make reasonable adjustments and grant flexible working requests.
4. Do you agree that parents should be required to provide notice to their employer?

The RCM does not believe it is appropriate to require parents to provide notice to their employer. It is very possible that the death of a child would be unexpected, the Office for National Statistics found that in 2016 external factors were the second most common cause of childhood death.<sup>4</sup> It would be unreasonable and insensitive to expect a parent to give notice. Whilst it may be possible to give notice of certain planned events e.g. a funeral this would be good practice rather than a necessary legal requirement.

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<sup>2</sup> Coping with Grief. The Loss Foundation. URL: <https://www.thelossfoundation.org/phases-of-grief/>

<sup>3</sup> Managing bereavement in the workplace – a good practice guide. ACAS, 2014. URL: <http://www.acas.org.uk/media/pdf/7/a/Managing-bereavement-in-the-workplace-a-good-practice-guide.pdf>

<sup>4</sup> Child mortality in England and Wales. The Office for National Statistics. URL: <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/childhoodinfantandperinatalmortalityinenglandandwales/2016>

5. What is a reasonable notice period:

As above

6. Evidence required for parental bereavement leave and pay.

The RCM does not believe it is appropriate to require evidence from grieving parents in order to access parental bereavement leave. In the initial stages of grief the parent is likely to be in shock and consumed by grief including feeling a number of physical reactions they may not have felt before.<sup>5</sup> In practical terms there may be delays and issues in obtaining death certificates; it would be insensitive to expect a parent already dealing with difficult bureaucratic processes following a death to add further requirements for evidence. We also do not believe that employers/managers would feel comfortable requesting evidence from an employee who is newly bereaved, indeed the National Council for Palliative Care states colleagues 'can be anxious about how to acknowledge what has happened and how to respond: worrying about making things worse, saying the wrong thing, or getting upset and overwhelmed themselves'.<sup>6</sup>

Parental bereavement leave is in no way comparable with existing family related leave and pay such and parental and adoption leave which in the majority of cases are happy times.

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<sup>5</sup> Coping with Grief. The Loss Foundation. URL; <https://www.thelossfoundation.org/phases-of-grief/>

<sup>6</sup>Life After Death. The National Council for Palliative Care, 2014. URL: <http://www.ncpc.org.uk/sites/default/files/LifeAfterDeath.pdf>