

Northern Ireland Assembly Department for the Economy
Parental Bereavement Leave and Pay Consultation
CIPD Northern Ireland Submission

14 July 2020

Background

The Chartered Institute for Personnel and Development (CIPD) is the Professional Body for HR and people development. Our purpose is to champion better work and working lives, and we have been setting the professional standards for HR and people development, as well as driving positive change in the world of work for more than 100 years. We have more than 150,000 members around the world, with over 3,500 of these in Northern Ireland.

We are key partners on multiple working groups and serve as a conduit to our network of members who both inform changes in policy and deliver them. Our membership in Northern Ireland is spread across businesses from the public, private and third sectors and across businesses of all sizes. This puts the CIPD in a strong position in the public policy sphere.

Public policy at the CIPD draws on our extensive research and thought leadership, practical advice and guidance, along with the experience and expertise of our diverse membership, to inform and shape debate, government policy and legislation for the benefit of employees and employers, to improve best practice in the workplace, to promote high standards of work and to represent the interests of our members at the highest level.

Our Response

Section 1: Definition of ‘Bereaved Parent’

1a. Who else do you think should be included within the definition of “bereaved parent”?

1. Adults who have parental responsibility under the Children’s Act 1989 as amended for the child who has died should also be considered for eligibility under the regulations. This should therefore include guardians and any individual who had duties towards the child in line with parental responsibility. Although step-parents, foster parents and grandparents do not automatically have parental responsibility these should also be considered for inclusion in the regulations.

Please provide reasons for your answer

2. As the consultation recognises, the death of a child is a most traumatic event that can have an impact on a range of people involved in their care and this is not necessarily restricted to those who are the legal or biological parents. The term ‘parent’ has wide interpretation in terms of the relationship that can involve with a child, and can include grandparent, foster parent and step parent. Most step-parents will typically be providing intensive and regular care and nurturing for a step child, regardless of whether or not they are married to the child’s biological or legal parent as they could be co-habiting – ONS statistics¹ published in 2014 found there were 544,000 stepfamilies with dependent children in 2011, which means that 11% of couple families with dependent children were stepfamilies. Grandparents can also have ongoing childcare responsibility for grandchildren, often so that the parents can work – TUC research found that nearly 7 million grandparents provide regular childcare for their grandchildren under 16². As such, the trauma and grief of losing a stepchild or grandchild can be catastrophic, which we recognise would not necessarily be dependent on whether or not the individual is a regular caregiver.

¹ Stepfamilies in 2011. ONS. Available at: http://webarchive.nationalarchives.gov.uk/20160107160721/http://www.ons.gov.uk/ons/dcp171776_360784.pdf

² Nearly seven million grandparents provide regular childcare. TUC. Available at: <https://www.tuc.org.uk/news/nearly-seven-million-grandparents-provide-regular-childcare>

Section 2: Flexibility around consecutive/non-consecutive weeks

2a. Which of the following options for leave-taking would be most appropriate?

3. Two weeks, which can be taken in units of a day, recognising that only whole weeks of leave with an employer would attract the statutory payment from that employer.

Please set out your reasons for your response.

4. On balance we support option iii). Given the huge turmoil and lack of predictability associated with the grief following the death of a child, and the unique nature of the impact on an individual, it's important that the regulations afford the maximum flexibility for when and how the statutory leave can be taken. While we expect most employers to be as compassionate and considerate as possible of an individual's particular leave requirements, it could be complex and burdensome for many organisations' payroll systems to cope with paying for single days of leave. Therefore we feel it is reasonable for employers to offer two weeks' discontinuous paid parental leave, taken in blocks of at least one week [or consecutively if the individual wishes] but that only whole weeks of leave would attract the statutory payment. We agree that in some cases the flexibility to take odd days that are unpaid would be preferable to some working parents, even if they are unpaid if taken in less than a one-week block. We feel option iii) strikes the best balance between offering maximum flexibility for the bereaved parent and not placing an unmanageable administrative burden on the employer.

Section 3: The window within which to take 2 weeks of leave and pay

3a. What do you think the optimal length for the window?

5. 52 weeks

Please provide reasons for your answer

6. Our survey of 679 organisations about the UK Government's proposals to introduce paid parental bereavement leave found that 88% were supportive of such a proposal. The findings indicated that respondents favoured a policy that was as flexible and wide in scope as possible, given the nature of an event as tragic as losing a child and also the relatively rare circumstances in which this happens and the therefore limited scope it poses to disrupt a business. In the spirit of the feedback we received from respondents, we therefore recommend that the longest timescale of 52 weeks is the optimal length for the window within which to take the 2 weeks' leave and pay. Aside from the unpredictability of how grief affects different people and how someone's unique feelings and circumstances would affect their leave requirements, this generous timescale would also easily accommodate the other considerations that may need to be factored, for example if there was an inquest or if the parent was unaware for a period of time about their statutory right to take leave.

Section 4: Notice required to take parental bereavement leave and pay

4a. Should parents be required to provide notice to their employer?

- i) If leave is taken very soon after the death of the child**
- ii) if leave is taken at a later period**

- i) No
- ii) Yes

Please provide reasons for your answer

7. We understand that unexpected absence from work can be challenging for an employer to manage, but would hope that the death of a child would inspire the utmost compassion and understanding towards the bereaved parent(s). We are human beings and organisations have a moral and social responsibility to recognise employees as such and provide caring and supportive workplaces. Employers who demonstrate empathy and flexibility, and are responsive in the immediate aftermath of a traumatic event such as the death of a child, are likely to gain respect and loyalty – not just from the affected individual but from the wider workforce. It may not be practically possible for a parent to give notice to take parental bereavement leave and pay if the leave is taken very soon after the death of the child, particularly if the death was unexpected. The deep emotional and psychological effects of such a bereavement and the employee's ability to take rational steps by following a rigid procedure could also be taken into account at this point.

8. We would not therefore expect that the bereaved parents should be required to provide notice to their employer if they wish to take the leave very soon after the death of their child. This would follow the statutory provision already in place for 'day one' emergency leave. The death of a child could definitely be classed as an 'emergency' and therefore it is reasonable for the bereaved parent to take this new proposed leave with immediate effect.

9. Grief is unpredictable and has no set pattern – therefore its impact can creep up on people at unexpected moments and have a devastating effect with little or no warning for the individual. The *CIPD Guide to Compassionate Bereavement Support* emphasises that employees will experience bereavement and grief in different ways and this should be understood and respected by both

employers and colleagues³ and the *Labour Relations Agency Guidance for Employers on Managing Bereavement in the Workplace* points out, the full emotional impact of the bereavement may not be felt for some time after a death⁴. In situations like this, it could be challenging for a bereaved parent to give much notice of when they want to take the statutory leave. However, we believe that flexibility needs to be balanced with the needs of employers where possible.

10. We would urge the Assembly to consider the promotion of guidance on managing bereavement leave in the workplace as a course of action to complement the regulatory change outlined in the consultation. The statutory right to paid parental bereavement leave is most welcome and will provide a baseline provision for many, but it's clear that some employers lack the knowledge and confidence to properly support employees following a traumatic event, and the support and empathy employees receive on an ongoing basis will be pivotal in determining how effectively bereaved parents are able to return to work. For example, our 2017 survey found that less than one in 10 (8%) of organisations train line managers on how to manage an employee experiencing a bereavement while 55% offer flexible working. Both our new CIPD Guide to Compassionate Bereavement Support and our Line Manager Guidance on Compassionate Bereavement Support, as well as the Labour Relations Agency Guidance for Employers on Managing Bereavement in the Workplace provides excellent good practice advice that could help organisations to support and retain employees.

5a. What is a reasonable notice period:

- i) If leave is taken very soon after the death of the child**
- ii) if leave is taken at a later period**

- i) Answer as above
- ii) We feel it is not unreasonable for the bereaved employee to give one week's notice where possible where the leave is taken at a later period, although we would urge employers to be as flexible and sensitive as possible to an employee's request to take leave, particularly where there is no immediate impact on service delivery.

Please provide reasons for your answer

³ https://www.cipd.co.uk/Images/guide-to-bereavement-support_tcm18-81624.pdf

⁴ Managing Bereavement Leave in the workplace: A good practice guide. Labour Relations Agency available at: https://www.lra.org.uk/sites/default/files/2019-03/Advisory%20Guide%20-%20Managing%20bereavement%20in%20the%20workplace_0.pdf

11. Please see response to 4b above.

6a. How should notice be given:

- i) If leave is taken very soon after the death of the child***
- ii) if leave is taken at a later period***

- i) No notice required, as above.
- ii) Answer same as at 4a & 5a as above.

Please provide reasons for your answer

12. Please see response to 4b and 5b above.

Section 5: Evidence required for parental bereavement leave and pay

7a. Should evidence requirements for this provision mirror those of existing family leave?

13. Yes

Please provide reasons for your answer

14. We would hope that in the majority of workplaces the relationships between an employer/manager and their employees are such that it would be virtually impossible for an individual to 'fake' the death of child and thus fraudulently claim parental bereavement leave and pay. However, if there is any doubt of the specific circumstances of an employee's claim for leave and pay, it is reasonable for an employer to have the right to request evidence from their employee of their eligibility to take leave.

Section 6: Parental bereavement statutory provision for payment

8. Please outline your thoughts concerning:

- ***A requirement for a qualification period for payment of parental bereavement pay;***
- ***The payment for parental bereavement pay; and***
- ***A notice period and evidential requirements for claiming payment of parental bereavement pay in Northern Ireland***

15. We feel that it is reasonable for bereavement leave pay to be made available to all paid employees, with a parent having been employed for at least 6 months (26 weeks) at the date of the death of the child and earning more than the lower earnings limit on average for the period of 8 weeks ending on the date of the death of the child.

16. Notice should be given where possible as above, and should follow a similar process to Jack's Law as implemented by the UK Government.

Section 7: Strategic vision for Employment Regulation in NI

9. Please take this opportunity to inform us of any other issues we should consider when making the Parental Bereavement Leave and Pay legislation.

16. On 21 July, CIPD launched new guidance for employers on compassionate and comprehensive bereavement support⁵. The guidance was accompanied by a call to introduce the right to bereavement leave and pay to all employees experiencing a close family bereavement.

Suffering the loss of a close family member can often be a devastating experience and bereaved employees should be treated with the utmost compassion and support in the workplace. Grief is not linear and does not have predictable stages. Employees can react differently to their experiences of bereavement and this should be understood and respected.

Sadly, across the United Kingdom, tens of thousands of people have died as a result of COVID-19. The ongoing impact of the pandemic means that employees will have lost family members, partners and friends. Some employees might also have experienced the loss of co-workers. Much of this loss will be unexpected and shocking. Bereaved employees will need time to come to terms with what has happened and will be highly unlikely to perform well at work if they are forced to return too quickly.

This makes it more important than ever to properly support those experiencing loss and grief through introducing a new right to bereavement pay and leave. For the CIPD, this would build on this consultation to expand the right to leave to all employees experiencing a bereavement of a close family member or dependent. A close family member means any parent, child, partner, or sibling, whether by blood, adoption, or through marriage/a partner.

⁵ CIPD calls for the right to bereavement leave and pay to be extended to all employees experiencing a close family bereavement: <https://www.cipd.co.uk/about/media/press/bereavement-leave-extended>