



BIRMINGHAM LAW SOCIETY

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Consultation Response to the Gov.uk's Make Work Pay: Leave for Bereavement including Pregnancy Loss

January 2026

Response of the Employment Law Committee of the Birmingham Law Society to consultation on leave for bereavement including pregnancy loss.

This response has been prepared by the Employment Law Committee of the Birmingham Law Society. The Society is the largest local law society with some 9,000 members from all branches of the legal profession and practising in all aspects of law. The response represents the collective views of the Employment Law Committee whose members include specialists in employment law from all branches of the legal profession.

Make Work Pay: leave for bereavement including pregnancy loss

Q1. Which relationships between the employee and the person who has passed away should qualify for the bereavement leave entitlement? Please select all that apply.

Immediate family members (including biological, adopted, step, half), for example, spouses, civil partners and partners in a committed long-term relationship, parents, adult children, siblings

[Q2 is not applicable]

Q3. Should bereavement leave for pregnancy loss be restricted to the person who has physically experienced the pregnancy loss?

No

Q4. If your answer is no, who else should be able to take leave? Please select all that apply and/or suggest others:

A spouse, civil partner, the other parent, or partner (who is in a committed long-term relationship) with the person who physically experienced the pregnancy loss

Q5. Do you agree that all the types of pregnancy loss listed above by the Government should be eligible for bereavement leave?

Yes

Please explain your answer, including any suggestions for clarification: We are employment lawyers and as such this is not our area of expertise. We defer to those with greater understanding and appreciation of these matters.

Q6. Are there any additional forms of pregnancy loss that should be included?

No

Please explain your answer: We are employment lawyers and as such this is not our area of expertise. We defer to those with greater understanding and appreciation of these matters.

Q7. How long should unpaid bereavement leave be?

One week

Please explain your answer: We consider that the statutory scheme must take into account the potential impact to businesses and so would recommend one week to the Government. We consider that there will be low take up in any event given that the scheme is unpaid.

Q8. Do you think employees should be offered the same amount of leave for all types of scenarios, and all relationships to the deceased, that you have selected above?

Yes

Q10. For bereavement leave, which of the following options for the leave entitlement to begin would be most appropriate?

B) The date of knowledge of the death or pregnancy loss

[For options A and B] Please explain your answer. Option B recognises that particular challenges arise for pregnancy loss, as miscarriages can occur before the employee even knows of the pregnancy and pregnancy loss can occur without the employee's knowledge. In recognition of this, the entitlement to leave should start from the date the employee becomes aware of the pregnancy loss.

Q11. Which of the following options for taking bereavement leave would be most appropriate?

Leave must be in one continuous block

Please explain your answer. If bereavement leave is one week only, this should be taken in one continuous block as this is administratively easier for employers. If it is two weeks (to align with Parental Bereavement Leave), the minimum period should be one week – i.e. leave could be just one week, two consecutive weeks or two separate weeks.

Q12. Which of the following windows for taking bereavement leave would be most appropriate?

56 weeks

Please explain your answer. This is the same approach as for Parental Bereavement Leave which would allow employees to take leave around difficult periods such as birthdays or anniversaries.

Q13. Do you think employees should be required to provide notice they intend to take bereavement leave to their employer?

I. If the leave is taken very soon after the bereavement (e.g. within the first few days or weeks)

Yes

Please explain your answer We believe that the notice requirement should mirror the Parental Bereavement Leave approach. For leave taken within eight weeks of a bereavement, notice should be given before the start of the working day on which they intend to take leave. This approach allows employees to take time off with

same-day notice in the weeks immediately following the bereavement. For employees who physically experience pregnancy loss, we agree that it is likely not possible for employees to give immediate notice because they may need to seek medical care first. In such circumstances, we would anticipate employees will use sick leave to support with the initial physical recovery.

II. If the leave is taken at a later period (e.g. several weeks or months after the bereavement):

Yes

Please explain your answer We believe that the notice requirement should mirror the Parental Bereavement Leave approach. After eight weeks, employees should be required to give one week of notice before a block of leave begins. This two-tier approach would allow employees to take time off with same-day notice in the weeks immediately following the bereavement, while also giving employers time to plan for the absence of bereaved staff if leave is taken later.

Q13a. How much notice should employees be required to give to their employer that they intend to take bereavement leave straight away?

Before the employee starts work on the day they intend to take leave, or as soon as is reasonably possible thereafter

Please explain your answer. This mirrors the Parental Bereavement Leave provisions.

Q13b. What is a reasonable notice period employees should give for leave taken at a later period?

One week's notice before the leave is due to start

Please explain your answer. This mirrors the Parental Bereavement Leave provisions.

Q14. If you think that notice should be given for bereavement leave, in what form should it be given?

The same as Parental Bereavement Leave (any form of notice is acceptable)

Please explain your answer. This mirrors the Parental Bereavement Leave provisions.

Q15. For bereavement leave do you think that employees should be required to provide evidence of a bereavement to their employer?

No, but they should be required to sign a declaration that they are eligible to take bereavement leave, and the reason they are taking leave is due to a bereavement or pregnancy loss

Please explain your answer. This mirrors the Parental Bereavement Leave provisions.

Q16. If you think an employee should provide evidence, or an employer should be allowed to request it, in order to take bereavement leave, what evidence would it be reasonable for an employee to provide? N/A

Q17. Do you have a view on timescales in which an employee should be required to provide evidence? N/A

Q18. Do you have views on other steps the Department could take to help employers implementing the new statutory bereavement leave and support their employees?

We would welcome accompanying guidance to help employers effectively implement the new bereavement leave entitlement, and support their employees when they are bereaved.

Our view is that to minimise the impact of these proposals on employers, they should be as closely aligned as possible with existing Parental Bereavement Leave entitlements. Given the sensitivity involved, we are conscious that the provisions may be difficult for employers to manage in practice and that some employees may not feel able to discuss their experiences with their employer. For example, they may prefer to seek support from a GP or to take sick leave. Contributions to the consultation from those with lived experiences of these issues will be an important part of these considerations.

Birmingham Law Society's Employment Law Committee

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