

Mr Peter Hall
Clerk
Committee for the Economy
Northern Ireland Assembly
Parliament Buildings
Stormont
BELFAST
BT4 3XX

2 November 2021

Dear Peter,

Parental Bereavement (Leave & Pay) Bill – Committee’s proposed amendments

I am writing in response to your letter of 20 October.

The Department has considered the Committee’s request for two amendments to be made to the Parental Bereavement (Leave and Pay) PBLP Bill in respect of miscarriage and a day one right to pay.

For the reasons previously articulated, the Department will not be bringing forward an amendment for a day one right to pay. The Minister also remains concerned that any change to day one entitlements made unilaterally by the NI Executive presents a real legal risk with significant financial liability due to breaking with the parity principle. It is a well understood principle that breaking parity could render NI liable for any subsequent increases introduced by the UK Government attempting to restore parity.

However, in light of the significance of the issue of miscarriage and the Minister’s desire to listen to the call for action from Committee members, the Department has drafted an amendment on miscarriage (draft attached).

This draft amendment places a statutory obligation on the Department to consult on policy options for miscarriage (as it relates to this Bill) within two years of the associated regulations coming into effect. The Minister believes that the amendment builds upon and further strengthens his previous correspondence to the Committee and also displays his commitment to exploring what type of support would be appropriate for cases of miscarriage whilst, importantly, still following due process in an attempt to ensure the correct outcome is reached. The Minister plans to move this amendment at consideration stage.

The Minister believes that his proposed amendment is a fair compromise which presents the Committee and the Minister with common ground upon which to progress this Bill.

It is the Minister's belief that securing this compromise carries even greater significance for both the Committee and the Minister in light of the Speaker's worrying pronouncement on the severe time pressures facing all Executive Bills.

The Minister wishes to thank the Committee for its continued scrutiny and welcomes its continued interest in these matters.

Should you require any further information please do not hesitate to contact me.

Sharon Smyth

Sharon Smyth
Departmental Assembly Liaison Officer

PARENTAL BEREAVEMENT (LEAVE AND PAY) BILL
AMENDMENT TO BE MOVED AT CONSIDERATION STAGE

By the Minister for the Economy

New clause

After clause 3 insert—

‘Consultation on leave and pay in cases of miscarriage

5 **3A.—**(1) The Department must consult such persons as it considers appropriate as to whether the entitlements relating to—

- (a) leave;
- (b) pay;

that are given under this Act where a child has died should also be given where a person has had a miscarriage.

10 (2) The consultation may include, in particular, consultation as to—

- (a) whether the entitlements should be given in all cases in which a person has had a miscarriage, or only in some cases;
- (b) whether the entitlements to be given in such cases should be the same as, or different from, the entitlements that are given where a child has died;
- 15 (c) whether anyone other than the person who has had the miscarriage should also be entitled to leave or pay;
- (d) whether different entitlements should be given in different cases of miscarriage.

(3) The Department must prepare a report on the consultation and—

- 20 (a) lay the report before the Assembly, and
- (b) publish it in such manner as the Department considers appropriate.

(4) The Department must lay and publish the report under subsection (3) before the end of the period of 2 years beginning with the date on which the first regulations made under the provisions inserted by sections 1 and 2 come into
25 operation.’