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**Our Ref: EXEC-0062-2020**

15-January-2021

Dear Caoimhe,

**Parental Bereavement Leave and Pay Consultation – Departmental Response Paper**

Following my letter to you on 21 May and subsequent Committee approval to complete a public consultation into the introduction of Parental Bereavement Leave and Pay in NI, please find enclosed a draft Departmental consultation response paper for Committee consideration.

The draft consultation response paper details my intention to introduce Parental Bereavement Leave and Pay legislation and provisions in Northern Ireland which will mirror GB legislation and provisions, therefore affording citizens in Northern Ireland the same rights and entitlements as those afforded in the rest of the United Kingdom.

**Background**

Parental bereavement leave and pay legislation in GB provides a statutory entitlement to two weeks parental bereavement leave following the death of a child for employees. It also attaches, for employees and workers with 26 weeks' service, a statutory paid element to the leave.

Child deaths affect approximately 450 employed parents each year in Northern Ireland. At present, there is no NI equivalent parental bereavement leave and pay statutory provision. Through this consultation, I aimed to ensure that employed parents here could benefit from similar statutory provision following the loss of a child to that which is now afforded to workers in the rest of the United Kingdom.

**Content of policy proposal**

The public consultation sought opinion on four main pillars: the definition of a 'bereaved parent'; defining how and when parental bereavement leave can be taken; identifying what level and length of notice period would be necessary; and establishing what evidence may be required to show that an employee is entitled to

leave and pay under the regulations. In addition, it sought opinion on the level of, and entitlement to, statutory payment.

Most employment related statutory payments closely align across GB and NI. This provides consistency and simplifies payment processes and payroll systems across the UK as a whole. Parental Bereavement Pay in GB (for 2020) is paid at a statutory rate of £151.20 or 90% of weekly earnings (whichever is lower). The overriding aim at this stage is to align NI legislation and entitlements with GB and to endeavour to have the necessary primary and subordinate legislation completed and introduced within this Assembly mandate.

### **Legislative Requirements**

The introduction of statutory parental bereavement leave and pay will require the development of both primary and subordinate legislation.

As you will appreciate, introducing primary legislation through the Assembly is a lengthy process and usually takes two years. If we are to complete the passage of legislation in the current Assembly mandate, then progress needs to be swift. Given that officials can use the policy and legislation already developed in GB as a starting point, I am hopeful, upon gaining the necessary support, that a draft bill could be ready for Assembly introduction early in 2021. This would allow time for the bill to complete its passage and become law before the end of the current mandate. The statutory regulations required to give effect to the provisions in the primary legislation would require a further 2-3 months approximately.

### **Financial Implications**

Preliminary analysis shows that financial implications for the NI Executive are low. It is estimated that the annual cost for funding the statutory payment element of this policy would be approximately £100k, excluding administration costs. The benefits of introducing this policy far outweigh the financial cost to the public purse. Initial discussions with HMRC and the Government Actuary Department (GAD) reinforce this analysis with the GAD indicating that the NI costs associated with Parental Bereavement Pay may be rounded to zero in the yearly GAD report.

### **Equality and Rural Impact Assessments**

The policy has been screened for any adverse Equality and Rural impacts and no adverse impacts were identified before or after the consultation.

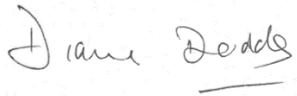
### **Next steps**

Executive approval to publish the Departmental response paper and to continue with the progression of an Assembly Bill was received on 14 January 2021. I am now seeking the Committee's views and approval to proceed.

Officials in my department are available to brief the Committee on this policy proposal, should that be deemed necessary.

Should Committee approval be forthcoming, I will inform the Assembly prior to publishing the Departmental response.

Yours sincerely

A handwritten signature in black ink that reads "Diane Dodds". The signature is written in a cursive style with a horizontal line underneath the name.

**DIANE DODDS MLA**  
**Minister for the Economy**



# Department Response to Public Consultation

## **PARENTAL BEREAVEMENT LEAVE AND PAY**

## Content

Foreword.....	3
Summary of respondents.....	4
Definition of 'bereaved parent'.....	7
Leave flexibility.....	9
Leave window.....	11
Notice periods.....	12
Evidence requirement.....	16
Parental Bereavement Pay.....	18
Other Issues.....	21
Annex A - List of Respondents	

## **Ministerial Foreword**

I want to thank all of the organisations and individuals that have responded to this consultation. I especially wish to acknowledge those courageous individuals who shared their own stories and experience of personal loss: I am really grateful for your contribution.

It was satisfying to see that this consultation reached such a cross-section of organisations, individuals, and employee and employer representative bodies. Despite any differences of opinion between respondents or with the detail of our proposals, there was a unanimity of purpose that employees in Northern Ireland deserve the same right to Parental Bereavement Leave and Pay as that afforded to employees across the rest of the United Kingdom.

My officials undertook this public consultation, seeking views on the likely key regulations that will be introduced. We sought to hear the public's views in order to help inform our decision making, and to ensure that our policy is right both for those who seek to rely on it and for those who will have to administer it.

The consultation and Departmental responses are laid out over the following pages. It remains my intention to push ahead with securing the progression of Northern Ireland Parental Bereavement Leave and Pay legislation with a minimum of delay and I am confident that my Executive colleagues and the Assembly will support me in achieving this.

Many employers already have provisions in place to deal compassionately with their employees and I have no doubt that this will continue to be the case. Many employers also have provisions that go well beyond those that I wish to introduce. The provisions set out below however, are a statutory minimum, which will ensure that all employees are afforded a certain degree of support at a time of need.

Finally, as we hopefully draw closer to bringing a Parental Bereavement Leave and Pay Bill to Northern Ireland, I must also take this opportunity to thank and acknowledge Lucy Herd, who lost her own son Jack, and whose tireless campaigning has led to this moment.

**Diane Dodds**  
**Minister for the Economy**

## Parental Bereavement Leave and Pay Consultation – Consultation and Departmental Responses

### Summary of Respondents

The consultation ran from 15 June to 10 August 2020 and in total we received 36 responses. 24 responses were submitted online and 12 responses were submitted by email. Respondents were not compelled to complete every question. Therefore the following analysis and corresponding total figures against each question may not always amount to 36.

### Respondent description

The majority of responses were submitted by representatives of interested organisations (15 responses) and by individuals (11 responses).

**Fig 1 - Respondent description**

Option	Total
I am responding as an individual	11
I am responding as an employer	4
I am responding as a representative of a trade union	1
I am responding as a representative of an employers association	3
I am responding as a representative of an interested organization	15
I am responding in some other capacity	2
Not Answered	0

### Individual respondent - Category

There were 11 responses from individuals. The majority of individual respondents were in employment (10 responses).

**Fig 2 - Individual respondent - Category**

Option	Total
Employed	10
Self-employed	0
Unemployed	0
Retired	1
Not looking for work	0
Other	0

### Individual respondent - Employment sector

The majority of individual respondents were employed in the public sector (9 responses), with only 1 individual respondent employed in the private sector.

**Fig 3 – Individual respondent - Employment sector**

Option	Total
Private sector organization	1
Public sector	9
Charity/voluntary sector	0
Other	0
Not answered	1

### Individual respondent - Organisation size

The majority of individual respondents (9 responses) were employed in large organisations with 250+ employees.

**Fig 4 - Individual - Organisation size**

Option	Total
Micro-business (0-9 employees)	0
Small business (10-49 employees)	1
Medium-sized business (50-249 employees)	0
Large business (250+ employees)	9
Not sure	0
Not Answered	1

### Employer - Organisation sector

There were a total of 4 responses from employers, with 3 responses from public sector employers and 1 response from a charity/voluntary sector employer. Whilst there were no direct responses from any private sector employers, there were 3 responses from representatives of employers' associations with membership encompassing private sector employment.

**Fig 5 - Employer - Organisation sector**

Option	Total
Private sector organization	0
Public sector	3
Charity/voluntary sector	1
Other	0



### **Employer - Organisation size**

3 of the employer respondents had 250+ employees and would therefore be considered large organisations. The remaining employer respondent would be considered a medium sized organization (50 – 249 employees).

**Fig 6 - Employer - Organisation size**

<b>Option</b>	<b>Total</b>
<b>Micro-business (0-9 employees)</b>	0
<b>Small business (10-49 employees)</b>	0
<b>Medium-sized business (50-249 employees)</b>	1
<b>Large business (250+ employees)</b>	3

## Summary of Consultation and Departmental Responses

### Definition of Bereaved Parent

**Who else, in addition to the above, do you think should be included within the definition of 'bereaved parent'?**

#### Summary of responses

There were 27 responses to this question, with a broad consensus that the description for a 'bereaved parent' as set out in the consultation documentation and the GB legislation was adequately defined and broad enough in scope to address a myriad of relationships between children, parents and those with parental responsibilities.

Many respondents recognised and commented on the idea of parental responsibility as being wider than biological parents and that it often includes step-parents or foster-carers.

Whilst there was a general consensus that the definition of a 'bereaved parent' was broadly sufficient, a small number of respondents called for the inclusion of grandparents within the definition.

In addition, one respondent called for the widening of the scope of the legislation to include all bereaved parents regardless of the age of their child at the time of death. A further respondent also called for the widening of the scope of the legislation to include provision of bereavement leave for all care-givers that experience bereavement following the death of a loved one for whom they have been a primary care-giver.

A number of respondents called for clear, comprehensive guidance to ensure that the legislation explicitly identifies those individuals who, whilst not legally recognised as parents, nevertheless qualify for entitlement as a 'bereaved parent'. This was deemed by some respondents as especially important in order to ensure that both employers and employees can have an unambiguous understanding of parental bereavement leave and pay rules during a time that will already prove difficult and stressful. It was suggested that this will help to avoid any additional or unwarranted burdens such as a proof of entitlement.

There were also a number of respondents who commented about bereaved parents who experience a stillbirth and called for the specific inclusion of these parents within the definition of a 'bereaved parent'.

Whilst many respondents acknowledged that they were generally satisfied with the GB legislative definition of a 'bereaved parent', some who expressed that satisfaction also called for a widening of the definition. These calls included: the inclusion of grandparents with caring responsibilities even though they may not have parental responsibility; for the upper age limit to be raised to 25 years of age; and for the right of

parental bereavement leave and pay to be extended to all family members including brothers and sisters.

A call was made by one respondent for the scope of parental bereavement pay to be widened to include self-employed people, those on zero-hour contracts and those who have been employed for less than the 26 week qualifying period.

## Departmental Response

Establishing a definition of a 'bereaved parent' is central to our Parental Bereavement Leave and Pay policy. Amongst respondents there was a broad consensus that the description for a 'bereaved parent' as set out in the consultation documentation and the GB legislation was adequately defined and broad enough in scope to address a myriad of relationships between children, parents and those with parental responsibilities.

The definition that we will set out in legislation will mirror that within the corresponding GB legislation. We believe that this will provide clarity for employers when determining eligibility and will help to avoid complications and the risk of challenge when faced with requests and making decisions.

Amongst respondents there were calls to broaden the scope of the proposed legislation. These calls encompassed ideas such as the inclusion of all bereaved parents regardless of the age of their child and for the inclusion of all grandparents with caring responsibilities for the child regardless of the parental responsibilities that others may have for the child.

We believe that it is appropriate for the focus of this legislation to remain upon parents bereaved following the loss of a child under the age of 18 and will therefore not extend the legislation to include those bereaved following the loss of adult children.

Additionally, whilst we understand that there may be many family members with caring responsibilities for a child, including grandparents and siblings, it is our intention to frame this legislation in such a way as to ensure that it is 'primary carers', whose relationship with the child was 'parental' in nature before the child died, that will be entitled to this provision.

We consider the concepts of a primary carer and parental relationship as crucial to the definition of a bereaved parent. We feel that these concepts will help to encompass the many circumstances and family relationships that make up the fabric of family life in today's society. It will extend the definition of a bereaved parent beyond biological parents and it will include any other person whose relationship has been parental in nature and who has had the parental responsibility for a child in the period immediately prior the death of that child.

It is also our intention to include within our definition those parents who experience the loss of a child through stillbirth after 24 weeks of pregnancy.

## Leave Flexibility

### Which of the following options for leave-taking would be most appropriate?

There was a broad and even 3-way split between respondents in relation to an appropriate leave-taking option. A slightly larger number of respondents (11) selected an alternative arrangement for leave-taking. Leave taken as either one week only or as two consecutive weeks was selected by 10 respondents. Leave taken as two discontinuous weeks was selected by 9 respondents.

**Fig 7 - Leave Flexibility**

Option	Total
Leave to be taken either as one week only or two consecutive weeks	10
Two weeks discontinuously, e.g. a week, then a further week taken at a later date	9
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	3
An alternative arrangement (please describe below)	11
Not Answered	3

### Summary of responses

There were 30 responses to the explanatory part of the leave flexibility question.

Whilst there was a broad difference in opinion in relation to the specific provision for taking leave in one or two week blocks or as single-days, there was a general preference which favoured leave-taking in weekly blocks.

Whilst those in favour of single-day leave provision believed that it offered the greatest flexibility for bereaved parents, this same single-day flexibility was cited by one respondent as having the potential to lead employees into feeling pressured to return to work earlier than intended, i.e. a full-time employee might only avail of 4 days leave instead of a full week.

Further issues identified by respondents who favoured single-day leave provision included the possibility that it would allow bereaved parents to take single days on specific dates such as birthdays and anniversaries and that single-day provision would better accommodate the grieving process which may not be 'linear' and can manifest itself in days of sudden 'acute, overwhelming grief.'

Amongst some respondents favouring weekly blocks of leave, there was a belief that a weekly block provision would be more manageable for employers to administer in comparison to single-day leave provision and that a provision for weekly blocks of leave was an appropriate balance between the needs of bereaved parents and employers.

The relative size of an employer was also a factor for some respondents favouring weekly block over single- day provision. There was a belief amongst these respondents that smaller employers would find the application of parental bereavement leave particularly difficult. These respondents asserted that this was due not only to their small size, administrative resource and lack of a HR team, but also due to the fact that small employers are more likely to be closer to their bereaved employee due perhaps to working alongside them.

Complications with company payroll systems was cited by some respondents as reason for supporting weekly blocks of leave over single-day provision. On the other hand, one respondent cited the flexibility of HMRC Covid-19 furlough payments as an indication that the administration of single-day leave payment could be accommodated.

A further issue identified was the fact that for some parents, the aftermath of a baby or child's death can lead to a much more complex burden than might be the case following other types of bereavement. Some bereaved parents are faced with involvement in an inquest which might require attendance at court. Other parents might also be impacted by local accessibility to paediatric pathology services in Northern Ireland.

## **Departmental Response**

We believe that it is important to strike the right balance between allowing as much flexibility as possible for bereaved parents and the need for employers to have a degree of certainty over when and how their employees can take Parental Bereavement Leave and Pay.

Whilst there was a call from some respondents for leave to be accommodated on an ad hoc daily basis, there was a general preference which favoured leave-taking in weekly blocks.

It is our belief that leave, taken in discontinuous weekly or a two week block, is more easily administered by employers whilst offering flexibility for employees. Ad hoc single days would increase the administrative burden upon employers and would also impact upon the ability for any payment to coincide with the leave taken.

We also believe that regulations that are both balanced and easy to administer serve to support those at whom they are aimed and in this case will serve to support the bereaved employee.

The GB Parental Bereavement Leave and Pay legislation allows bereaved parents to choose to take up to 2 weeks leave either consecutively or non-consecutively in weekly

blocks and it is our intention to make the same provision for bereaved parents in Northern Ireland.

## Leave Window

### What do you think is the optimal length for the window during which leave can be taken?

There was a broad consensus to this question, with 22 respondents selecting 56 weeks as the optimal length for the window during which parental bereavement leave can be taken. There was a further 3-way split amongst remaining respondents who opted for either an 8 week (4 respondents) or 26 week (3 respondents) window or an alternative window. 4 respondents chose not to answer this question.

**Fig 8 - Leave Window**

Option	Total
8 weeks	4
26 weeks	3
56 weeks	22
Other – please specify below	3
Not Answered	4

### Summary of responses

There were 26 responses to the explanatory part of the leave window question.

Whilst there was near universal support for a 56 week window, there was nevertheless a recognition from some that this longer period would create a certain lack of predictability around when leave is likely to be taken and that it could therefore be somewhat challenging for a business to plan around.

Notwithstanding the recognition of the challenge that managing a 56 week window may present for employers, there was a belief that this window fairly balanced the needs of employers and bereaved parents.

Some respondents believed that it was important for leave to be taken in the immediate aftermath of a bereavement and accordingly preferred an 8 or 26 week window; however, many others believed that the needs of bereaved parents would differ and be varied.

Such respondents expressed a belief that a 56 week window would encompass occasions such as the anniversary of a child's death or a birthday. There was a belief that 56 weeks would maximise the time during which a parent could avail of parental bereavement leave.

A further issue that was highlighted was that 56 weeks would also encompass bereaved mothers following the completion of their maternity leave.

## Departmental Response

We believe that providing bereaved parents with the option to take their leave at a time of their choosing over a 56 week period provides a flexibility and space that will better meet needs that are very often particular and unique for each set of parents.

We understand that a 56 week window may create a certain lack of predictability for employers around when leave is likely to be taken. Nevertheless we believe that this length will better suit bereaved parents and recognises that their needs may vary greatly on a case by case basis.

We recognise that some bereaved parents may wish to take all of their parental bereavement leave in the immediate aftermath of a loss. For others, the flexibility to take leave at a later date, possibly around an anniversary or a birthday will be of more importance.

Making provision for a two week block or two discontinuous weeks of leave across a 56 week period maximises the benefit for bereaved parents. It will also, importantly, encompass bereaved mothers following the completion of their maternity leave.

It is our intention to replicate GB provisions and legislate for a 56 week period during which parental bereavement leave can be taken.

## Notice Periods

### Notice Period – Shortly after

#### Should parents be required to provide notice to their employer if leave is taken very soon after the death of a child?

Responses were evenly split for this question, with 12 respondents believing that bereaved parents should be required to provide notice to their employer if leave is taken very soon after the death of a child and 12 respondents believing that notice should not be required. 6 respondents were not sure about their response to this question and a further 6 respondents chose not to answer the question.

**Fig 9 - Notice Period - Shortly after**

Option	Total
Yes	12
No	12
Not sure	6
Not Answered	6

## **Summary of responses**

There were 30 responses to the explanatory part of this notice period question.

Whilst many respondents recognised that providing notice would give employers an opportunity to plan for cover if needed, there was also a recognition that it might not always be possible for such notice to be given.

Amongst respondents who believed that parents should be required to give notice, there was a recognition that a great deal of sensitivity and understanding was necessary on the part of the employer. There was also a belief that notification would provide an employer who may not have been aware of a bereavement the opportunity to offer support to their employee.

Predominant themes behind requiring notice to be given appeared to be: for administrative purposes; in order to avoid any uncertainty; and to provide the opportunity for the employer to support the employee.

Amongst respondents who believed that parents should not be required to give notice, there was a belief that it might not always be possible for notice to be given prior to the leave being taken.

Comparison was made by one respondent to existing legislation covering the right to time off for dependents. In certain circumstances an employee exercising their entitlement to the right to time off can avail of it without first notifying their employer, with the obligation being to inform the employer as soon as it is reasonably practicable to do so.

A distinction was also made by another respondent between the significance of a formal notice period and the giving of notice, with the belief that even in the absence of a notice period, notification could still be required to be given in some way including after the leave had commenced.

### **What is a reasonable notice period if leave is taken very soon after the death of a child?**

There were 26 responses to this question.

There remained a belief amongst some respondents that no notice period should be required. However the greatest number of respondents expressed a belief that notice on the day when leave is started would be reasonable.

Further responses included giving one day's notice, giving notice after the leave has commenced, following the employer's existing notification procedures and giving notification within one week of commencing the leave.

Reference was made to the notification requirement within the GB legislation and the belief that this struck the right balance between employers and employees.



### **How should notice be given if leave is taken very soon after the death of a child?**

There were 27 responses to this part of the question.

There was near unanimity in response to this question. The belief amongst respondents was that notice should be given to either a line manager or HR department.

Respondents also believed that notice could be given in whichever way best suited the bereaved parent. This included friends and family providing notice on behalf of the employee and included notice being given by phone, by email or by other appropriate means.

One respondent observed that in tragic circumstances such as a bereavement that a simple phone call, message or email would be the most common, kindest and most compassionate approach.

### **Notice Period – Later**

#### **Should parents be required to provide notice to their employer if leave is taken at a later period?**

There was broad consensus, with 23 respondents believing that parents should be required to provide notice to their employer if leave is taken at a later period. 4 respondents believed that parents should not be required to provide notice. 7 respondents did not answer the question and 2 respondents were not sure of their position on the matter.

**Fig 10 - Notice period - Later**

<b>Option</b>	<b>Total</b>
<b>Yes</b>	23
<b>No</b>	4
<b>Not sure</b>	2
<b>Not Answered</b>	7

### **Summary of responses**

There were 31 responses to the explanatory part of this later notice period question.

The majority of respondents believed that the overriding purpose for requiring parents to provide notice to their employer if leave is taken at a later date would be to allow employers to prepare for and accommodate the absence.

Again, reference was made to the GB legislation striking the right balance between the needs of employees and the needs of employers.

A point made by many respondents was the belief that, in the later period following bereavement, many events, such as anniversaries, birthdays and inquests, could be anticipated and perhaps planned for and accordingly notice of leave for such events could and therefore should be given. This was balanced with the recognition that grief, even in a later period following bereavement, can be unpredictable and manifest itself in such a way that a bereaved parent may not have anticipated or prepared for.

Accordingly, whilst many respondents commented on the fairness towards employers for requiring a notice period, many also commented that a certain degree of flexibility and sensitivity would be necessary on the part of employers in order to account for the many ways that grief impacts on different people.

### **What is a reasonable notice period if leave is taken at a later period?**

There were 26 responses to this part of the question.

Respondents were evenly split between the largest number favouring a 1 week notice period and a similar amount favouring a number of disparate notice periods, ranging between on the day notice to an 8 weeks' notice period.

One respondent, whilst calling for a 1 week notice period, also called for employers to be prepared to accept less than this depending upon the circumstances of the bereaved parent and their absence. For the same reason, another respondent, whilst also calling for a 1 week notice period, asked for the notice period not to be a legislative requirement.

### **How should this notice be given if leave is taken at a later period?**

There were 26 responses to this part of the question.

The 3 most predominant response types to this question could be considered somewhat interlinked. There was a belief amongst some respondents that notice should explicitly be given in writing. Amongst other respondents there was a belief that notice should be given in accordance with whatever the employer's normal procedures happen to be. A third response amongst respondents was more flexible in scope, with a call for notice to be given in a manner in which the employee sees fit or in a manner which includes phone-calls, messages and emails.

## **Departmental Response**

In addressing the issues surrounding notice periods, we recognise that expecting bereaved parents to provide notice to their employer prior to an absence may prove problematic in the period immediately following the death of a child. That is why we intend to follow the GB legislation and introduce a degree of flexibility for how notice of leave may be given if leave is taken immediately after death.

There are a host of reasons why we believe that it is important for employers to be aware of an impending period of absence. Many of these reasons reach beyond the simple need to allow an employer to plan around an absence. On many occasions employers themselves may work alongside the bereaved parents and it is also important for employers to have an opportunity to support their bereaved employees and the colleagues of bereaved employees.

Accordingly, for leave taken shortly after the death of a child, there will still be a requirement for notice to be given. However, in recognition of the impact that such a loss might have in preventing notice being given during the earlier period, we will also legislate for this notice to be given as soon as is practicable following the death if unable to be given prior to the absence.

For leave taken at a later date, for example on a particular anniversary or birthday, we feel that a short notice period of one week will be appropriate and will fairly balance the needs of bereaved parents with those of employers.

Whilst we intend to legislate for a notice period applicable to parental bereavement leave, the means by which that notice should be given will remain a matter for the employer and employee. We believe that this approach will best meet the requirements of individual employers and employees and will be easier to reflect within organisational policies and guidance.

## Evidence Requirement

### Should evidence requirements for this provision mirror those of existing family leave?

The majority of respondents (15) believed that evidence requirements should mirror those of existing family leave entitlements. 7 respondents did not believe that evidence should mirror existing family leave entitlements and 9 respondents were not sure of their position. 5 respondents chose not to respond to this question.

**Fig 11 - Evidence Requirements**

Option	Total
Yes	15
No	7
Not sure	9
Not Answered	5

## **Summary of responses**

There were 25 responses to the explanatory part of this question.

A number of respondents expressed a belief that it was reasonable for employees to provide evidence of entitlement to Parental Bereavement Leave and Pay. They did not expand upon their reasons for believing that this should be the case.

Most respondents discussed what they considered to be issues surrounding evidential requirements. The main issue was one of sensitivity. Many respondents believed that it was simply insensitive to expect a grieving parent to provide evidence of an entitlement to leave or pay following the death of a child.

Other respondents, whilst acknowledging that any evidential requirement would need to be approached with sensitivity, did not go so far as to refer to such a requirement as insensitive. A prevailing belief amongst these respondents was that evidence of entitlement should be by way of self-declaration.

A difference in opinion was evident between those that believed that a self-declaration could be given verbally and those that believed that a written self-declaration would be appropriate.

Commenting upon evidential requirements for other family related benefits, one respondent contrasted the happier circumstances associated with some other benefits with the obviously tragic circumstances associated with parental bereavement.

Only one respondent suggested that a copy of a death certificate would be an appropriate requirement for evidence of entitlement.

The unlikelihood of a fraudulent claim for either Parental Bereavement Leave or Pay was highlighted by some respondents as a reason for evidential requirements to be declarative rather than evidential.

## **Departmental Response**

We acknowledge the sensitivity surrounding an evidential requirement for entitlement to parental bereavement leave. Given the circumstances in which bereaved parents are likely to avail of this leave, we wish to ensure that the process carries the minimum possible administrative burden.

An overriding intention has been to ensure that bereaved parents can avail of this leave when they most need it. We also want to ensure that parents are not faced with any impediment to taking the leave when required, such as providing proof of a death or of a parental relationship.

We believe that the notice provided by parents of their intent to take parental bereavement leave is in itself a declaration and acknowledgement of entitlement and will be recognised as such by employers

Whilst it is our intention not to have an evidential requirement for entitlement to parental bereavement leave, there will be a requirement for evidence of entitlement to parental bereavement pay.

## **Parental Bereavement Pay**

### **Please outline your thoughts concerning a requirement for a qualification period for payment of parental bereavement pay in Northern Ireland.**

There were 27 responses to this question.

A majority of respondents (17) believed that payment of parental bereavement pay should be a day one right and that there should not be a qualification period. 8 respondents believed that a qualification period was reasonable, with most expressing the belief that the qualification period should mirror the equivalent GB legislation. 2 further respondents believed that the qualification period should be shorter than 26 weeks.

Amongst those respondents calling for no qualification period, the majority cited reasons such as compassion and fairness. Reflective of this sentiment was one response which highlighted the unplanned nature and lack of control over bereavement. This respondent expressed their belief that a qualification period was both unnecessary and unsympathetic.

Reference was made by one respondent to maternity allowance, which provides a statutory payment to mothers who do not qualify for statutory maternity pay. This respondent called for the introduction of a similar type of statutory provision for bereaved parents who could fall outside of the scope of a 26 week qualifying period.

Amongst those respondents expressing the belief that it was reasonable for a qualification period to be in place, the predominant reason given was one of consistency with existing entitlements and with the GB legislation.

A concern was raised by one respondent about the potential impact of a qualifying period on doctors in training in Northern Ireland. The absence of a single lead-employer for such doctors in training along with regular training rotations between employers reduces the ability of these doctors to meet the qualifying period.

A further highlighted concern was the possibility that some recently bereaved parents may have changed jobs in order to gain greater working flexibility to enable them both to work and care for a sick child.

**Please outline your thoughts concerning the payment for parental bereavement pay in Northern Ireland.**

There were 24 responses to this question.

9 Respondents believed that payment for parental bereavement leave should be in line with existing statutory payments, with a particular emphasis placed on maternity pay. 9 respondents believed that the GB legislative provision for payment should be increased and 5 respondents commented in positive terms about a payment without making comment about the particular amount.

All respondents expressed the belief that some level of payment for parental bereavement leave was appropriate and beneficial. No respondents called for the leave to be unpaid.

Amongst respondents who believed that payment should be in line with existing statutory payments and in particular those that explicitly referenced maternity pay - it wasn't apparent if consideration had been given to the distinction between the first 6 weeks of statutory maternity pay which is paid at a higher rate, and the remaining 33 weeks of statutory maternity pay which is paid at a lower rate.

Having the same level of payment provision between Northern Ireland and GB was highlighted as important by some respondents. Those that called for equivalent payments believed that it was fair for Northern Ireland employees to enjoy the same entitlements as their GB counterparts. There was also a belief that there should be consistency and no differentials between Northern Ireland and GB.

Amongst respondents calling for an increase to the statutory payment in GB, there were a range of opinions. One respondent expressed a concern that there may not be a wide take up amongst bereaved parents due to the level of payment.

Another respondent, in calling for the payment to be increased, highlighted the financial burden that many recently bereaved parents will have faced as a result of an older child's illness in the period preceding their child's death. A similar financial burden was highlighted by another respondent, in relation to the costs that many bereaved parents experience following antenatal illnesses prior to a child's death.

**Please outline your thoughts concerning a notice period and evidential requirements for claiming payment of parental bereavement pay in Northern Ireland**

There were 19 responses to this part of the question.

These responses were similar to those given to the questions concerning notice periods and evidential requirements for leave.

Responses for claiming parental bereavement pay ranged from a belief that evidence and notice should not be a requirement for entitlement to the belief that production of a death certificate was a reasonable evidential requirement.

For those respondents calling for a notice period there was a belief that it would be necessary in order to meet the administrative and payroll aspects of the payment and assist employers with planning for absences and with record-keeping.

Amongst those calling for a notice period there was a recognition that it might be more difficult for an employee to satisfy any notice requirement in the immediate aftermath of the death of their child. A degree of sensitivity and pragmatism was called for in these circumstances.

The timing of the leave and pay was identified as necessitating different notice requirements. Whilst agreeing that there should be a notice period, some respondents emphasised that this should only be where it is reasonable to do so. These respondents called for there to be no legislative obligation placed upon an employee to provide written notice upon the death of a child or loss of pregnancy after 24 weeks in the immediate day(s) that follow if leave is taken immediately.

These same respondents agreed with a notice period if leave is taken at a later date but also called for flexibility in the event that an employee failed to meet the notice requirement, even if taking leave at a later stage.

In terms of evidential requirements, whilst there was a belief amongst some that the production of a death certificate was a reasonable expectation for an employer, there was also a call for employers to take the word of their employee and for evidential obligations not to be legislated for.

Again, there was also a call for evidential requirements to be legislated for by way of a declarative application/notification by the employee.

Consistency with equivalent GB legislation was again a dominant theme amongst those calling for a notice period and evidential requirements.

## **Departmental Response**

Whilst we recognise that there has been a call for the statutory pay element of this provision to be increased or widened in scope and application, we believe that it is important to maintain an alignment with existing family related statutory pay provisions and for disparities between employees in Northern Ireland and the rest of the United Kingdom to be kept to a minimum whenever possible. Making a change to the amount payable would also result in a delay to the introduction of this new statutory right, which we want to avoid. The statutory payment for this provision will therefore be paid in line with other statutory payments, which presently is the lower of either £151.20 or 90% of an employee's average weekly earnings.

For most employees, taking parental bereavement leave and pay will be inextricably linked and for all employees there will be an entitlement to the leave element from day 1 of employment. However, in line with other family related statutory payments and in keeping with the GB parental bereavement pay provision, it is our intention that a qualifying period of 26 weeks will also apply to the statutory pay element in Northern Ireland. Maintaining this parity with GB will also avoid additional employer costs in amending existing UK wide payroll systems that implement statutory payments.

In line with our approach to a notice period and evidential requirements for parental bereavement leave, we believe that the same considerations concerning sensitivity and practicability should apply to pay.

Accordingly, and in line with the GB provisions, there will be a requirement for those wishing to avail of parental bereavement pay to notify their employer in writing within 28 days of the commencement of any associated leave. In keeping with our previously stated intentions, we believe that this will ensure that employees can commence a parental bereavement leave and pay period in the immediate aftermath of the death of their child without first having to give notice to their employer if it has not been practicable to do so.

Our approach to the evidential requirements again takes heed of the sensitivities surrounding the bereavement and the necessity to administer payments properly. There will therefore be a light-touch requirement for evidence of entitlement - to be given in writing but limited to a declaration of entitlement by way of relationship with the child, the name of the person claiming the payment and the date of their child's death.

## Other Issues

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

There were 25 responses to this question.

Responses to this question were wide ranging with many touching on topics that were unrelated to parental bereavement leave and pay.

These included a call for recognition of different definitions of family and the importance of ensuring equal rights for unmarried parents and parents in same sex relationships.

There was a call for full pay to be given to bereaved parents for at least one and possibly both weeks. This call was made in recognition of the financial burden that bereaved parents face following the loss of a child.

The impact that caring for children with long-term complex needs prior to their death and in particular the exhaustion felt by bereaved parents following the final weeks of life, led to one respondent to observing that such parents would be unlikely to be fit to return to work within two weeks.



A call was made for consideration of parents that are bereaved following the loss of a child in the first 24 weeks of pregnancy. One respondent called for such parents to be included in any parental bereavement legislation whilst another respondent called for such parents to be included in separate dedicated legislation.

A further area for consideration, raised by a number of respondents, was for the inclusion of self-employed bereaved parents along with other workers who may not be considered as employees.

A call was made for consideration to be given to the possibility that many employees may live in the Republic of Ireland whilst working in Northern Ireland.

For the purpose of maintaining a focus upon Parental Bereavement Leave and Pay legislation, some of the issues that have been identified as lying outside of the scope of any potential legislation but which share a similar precept around loss, will be noted below but reserved for consideration elsewhere.

Amongst the issues falling outside of the scope of Parental Bereavement Leave and Pay, there was a call for the introduction of Neo-Natal leave and pay for new parents whose children are in hospital for a long period following birth.

A call was also made for the introduction of bereavement leave and pay to all employees experiencing any close family bereavement. A further separate call was made for a provision of leave and pay entitlement to be extended to primary carers following the death of the person for whom care had been given.

## **Departmental Response**

Many respondents have called for a widening of the scope of the legislation and for more generous leave and pay provisions to be made available. We acknowledge these calls and appreciate the conviction and passion with which they were made.

Many employers already have provisions in place that go well beyond the statutory minimum provision that we wish to introduce and we are confident that these employers will continue to deal generously and compassionately with their employees. Our provisions will however provide the statutory minimum that will ensure that all employees are afforded a degree of compassion and support at a time of need.

An overriding aim has also been to ensure that employees in Northern Ireland are afforded the same entitlements to parental bereavement leave and pay as their fellow citizens throughout the rest of the United Kingdom.

With that aim in mind, we examined the legislative provisions set out for Parental Bereavement Leave and Pay in GB and considered their suitability for Northern Ireland employees and employers.

Despite the calls from some for a widening and more generous scope for our legislation, there was a unanimity amongst respondents that the introduction of Parental Bereavement Leave and Pay here in Northern Ireland is the right thing to do. This sentiment was echoed across all respondent groups.

It is therefore our intention, as indicated in our consultation paper and throughout this response, to introduce the same entitlement to Parental Bereavement Leave and Pay for Northern Ireland employees as that presently afforded to employees in Great Britain.

As always, we will keep this and the entire suite of employment rights in Northern Ireland under review, to ensure that they meet the needs of both employees and employers.

**Annex A – List of respondents (individual respondents and organisations that requested anonymity not included)**

Alliance Party

Bliss

British Medical Association

Chartered Institute of Personnel and Development

Consortium for the Regional Support for Women in Disadvantaged & Rural Areas

Copacetic Business Solutions Ltd

EEF Northern Ireland

Employees for Childcare

Federation of Small Businesses Northern Ireland

Golden Charter Ltd

Lisburn & Castlereagh City Council

Marie Curie

Mindwise

NIPSA

Parenting NI

Peninsula

Public Services People Managers Association

SDLP

Sinn Féin

Together for Short Lives

Ulster University