

Statutory bereavement leave and pay in Northern Ireland

A call to action

CBW membership



Introduction

At any time, around one in ten workers in the UK are estimated to be affected by a bereavement. ^[i] This number is likely to have increased significantly during the COVID-19 pandemic, but no matter what the wider circumstances, one fact has been consistent: **for the majority of employees, access to paid bereavement leave is entirely at the discretion of their employer.**

Many organisations are compassionate and, following a bereavement, give their staff the time and space they need to begin the grieving process – without feeling pressured to return to work too soon or leaving them without an income while they're off. But this isn't universal. **In a survey of employees in Northern Ireland who have been bereaved during the last year, one in 7 said they weren't offered a single day of paid bereavement leave.** ^[ii]

Our research in Northern Ireland exposes a severely uneven playing field, with too many workers left without any entitlement to sufficient and paid time off from work when they lose a loved one.

Returning to work too soon, or before they are ready, can be damaging for a bereaved person's wellbeing – making it more difficult for them to come to terms with their loss and manage the impact of their grief. Among some of the people we spoke to, the effects of this had lasted for years.

For others, the lack of paid leave left them having to choose between taking the time off that they needed and putting bread on the table – with these financial pressures only compounding the distress of losing their loved one.

"My [relative] died on a Sunday, I was back in work on Wednesday morning. I couldn't afford to stay off work and wasn't paid for the two days I had to take off. It absolutely affected my ability to grieve. I was completely bereft, exhausted and shell shocked. Having to worry about money at such a harrowing time is a very real issue. You have no time to grieve. Putting workers in that unpaid position is simply cruel." – Lucy

It shouldn't be this way. The Coalition for Bereaved Workers NI (CBW) is a collective of charities and trade union representatives campaigning for the introduction of two week's statutory bereavement leave and pay for everyone impacted by the death of a close relative or partner in Northern Ireland. We are calling on all political parties to support our campaign.

This paper includes the testimony and experiences of people in Northern Ireland who have been bereaved of a close relative or partner while in employment. This evidence was gathered by the members of the Coalition for Bereaved Workers. The names of the workers, and other details related to their experiences, have been anonymised to protect their identity, as many are still in employment and may be working for the same organisation.

The impact of bereavement on workers' health and wellbeing

While bereavement is an individual experience that will impact on different people in different ways, it can have a profound effect on a worker's health and wellbeing.

Common grief reactions following the death of a loved one include anxiety, depressive symptoms and general deterioration in psychological wellbeing. Many people suffer physical health complaints as well – including breathing difficulties, muscular pain, nausea and panic attacks – while sleep loss, fatigue and reduced energy levels are also common. In the worse cases, bereavement is even linked to increased risk of mortality. ^[iii] ^[iv] ^[v] ^[vi]

The impact of bereavement may be driven by varying factors across different age groups. Research on widowhood suggests that the death of a spouse among younger people is associated with greater physical and psychological decline; with a more disruptive impact because younger people may be less prepared to cope with the death of their partner than those who are older. ^[vi]

Conversely, with more and more people working into later life, bereavement may have a significant impact on older people because of other concurrent 'losses' – including declining social connections and their own failing health. ^[v]

No matter what a worker's circumstances, access to paid bereavement leave will not bring their loved one back or entirely inoculate them from all of the damaging effects described above. It can, however, help to give them the time, space and financial security they need to start the

grieving process, begin coming to terms with their loss, carry out the practical tasks that follow a death, and provide support to other loved ones impacted by the bereavement.

“Special paid leave allowed me to complete the endless practicalities that surrounded the deaths and the actions to start closing down my loved ones' estates, without worrying about getting time off or loss of earnings, particularly when funerals are incredibly costly. To know that I had access to paid time off for a bereavement was a weight lifted off my shoulders.” – Julia

Current policy environment: An uneven playing field for bereaved employees in Northern Ireland

Existing legislation in Northern Ireland provides very little legal protection for people who need time away from work following the death of a loved one. The Employment Rights (Northern Ireland) Order 1996 confers the right of workers to a “reasonable amount of time off” following the death of a dependent, ^[vii] but the duration of this leave is not defined and there is no obligation for it to be paid.

As the Department for the Economy (DfE) has highlighted, this provision is designed to give bereaved people the time to carry out practical tasks following a death, but “grief, sadness and coping with loss is not a focus.” ^[viii]

More recently, DfE confirmed plans to introduce Statutory Parental Bereavement Leave and Pay in Northern Ireland. ^[ix] Mirroring legislation already in place in England, Wales and Scotland, this will confer a legal entitlement to two weeks bereavement leave for parents who experience the death of a child under the age of 18.

Where employees have served a 26-week qualifying period with their employer and earn over a certain amount, they will also receive parental bereavement pay during these two weeks, valued at just over £150 per week or 90% of their average weekly earnings (whichever is lower). Employers can recover at least 92% of these payments from HMRC, with small employers able to claim back 100%.

While proposals for parental bereavement leave and pay are an important step forward, they still contain significant gaps.

Mercifully, people aged under-20 accounted for just 1% of all deaths recorded in Northern Ireland in 2019, ^[x] so the overwhelming majority of deaths – and by extension, the bereaved people left behind – are not covered by the policy.

While well-intentioned, we believe the proposals for parental bereavement leave and pay inadvertently create a hierarchy of bereavement – supporting a very narrow population of bereaved people and excluding the majority of others.

“I was given one week’s paid leave from work, but after that I had to get a sick line from my GP to make sure I would still be paid if I took more time off. One week just isn’t enough to get over the loss of such a close family member, and the ordeal of having to plea for a sick line was so distressing. Can you imagine having to sit in front of a stranger, explain to them that your [relative] has died and justify why you aren’t ready to go back to work yet? It shouldn’t be this way. Dealing with the loss of a loved one is bad enough without being put through that. I really don’t think it is much to ask for two week’s guaranteed leave, like they’re doing for parents. I can’t imagine how painful it would be to lose a child, but I don’t think that diminishes my grief either. It doesn’t seem very fair.” – Debbie

What impact is this having?

Bereaved employees in Northern Ireland face a severely uneven playing field, where the vast majority have no legal entitlements to a minimum amount of paid time off after losing a close loved one.

DfE has argued repeatedly that only a very small number of employers are not sufficiently compassionate when their staff suffer a bereavement, but evidence gathered by CBW suggests this may be more widespread than first thought.

In a Marie Curie-commissioned survey of full- and part-time workers in Northern Ireland who have been bereaved during the last year:

- One in 7 said they weren't offered a single day of paid bereavement leave that was separate to their normal annual leave entitlement;
- Nearly a quarter (24%) disagreed/strongly disagreed that they were able to take the time off work that they needed;
- Close to half (47%) said they worried that taking time off would affect their job security;
- 44% said they felt pressured to return to work before they were ready; and
- Over half (54%) said they couldn't afford to stay off work so had to return before they were ready. ^[ii]

Stories submitted to our campaign from bereaved employees across Northern Ireland reinforce these trends. They show that bereaved workers may be offered a few days off by their employer, but this may not be paid, and in any case, is much too short a time frame for someone to begin processing the loss of a close loved one. This not only disrupts the grieving process and effects their mental wellbeing, but may result in a precarious financial situation – compounding the impact of the death even further.

“After [relative's] death I was only entitled to 3 days paid compassionate leave, but I also took 2 weeks on sick leave as I wasn't

emotionally able to return to work after 3 days. On my return I had to endure a return to work meeting and was reminded of the sickness absence policy. I still remember feeling very aggrieved about that as my manager knew very well why I was off... I lost some respect for those involved in making the decisions they made, and also felt boxes were being ticked to comply with procedures, rather than treating me as a grieving human being.” – Grace

“[W]hen my [relative] passed away... I was given 5 days paid compassionate leave and then had to take unpaid sick leave as I was still recovering from their death and also had to deal with their financial matters, clearing property, the will etc... This cost me significant loss to my salary and took approximately 3 months for me to get back in the black in the bank. I still had a mortgage and bills to pay. It left me very stressed and added to the stress I was already under from the loss of my [relative]. Having to worry about loss of income severely impacted on my ability to grieve properly and made me feel very angry, and my mental health suffered significantly as a result.” – Mary

“I was given 3 days compassionate leave following on from [relative's] death... I definitely do think that there was always a pressure, albeit unsaid, for me to return to work and just to get on with things. My grief has been delayed by this and in the last 2 years it has all come to a head.” – Ciara

The absence of sufficient bereavement leave forces many bereaved workers to use annual leave or sickness absence to take time off – falsely and offensively equating the loss of a loved one with a holiday or a type of illness. Statutory Sick Pay in the UK is among the least generous globally, ^[xi] and having to rely on it following a bereavement may contribute to the financial pressures described above.

“Following the death of a relative, I was entitled to 3 days bereavement leave... However, this is never enough, especially when I had to arrange a funeral and register the death... Exhaustion and processing loss takes its toll physically and emotionally. For me, I had no choice but to obtain a sick cert from my GP to give me additional time to grieve. I hated having to do this because I wasn’t sick, I was grieving – not the same.” – Jessica

This situation may also leave workers without the annual leave they need to support their family or loved ones through the bereavement; or force them to choose between taking time off to grieve and fulfilling other responsibilities, such as caring roles.

“Having to use 10 days of my annual leave meant that I had less time to spend over the summer with my two children. Not only were my children grieving for their [relative]... but they were also having to deal with home schooling, the worry of exam grades and the pandemic while helping us to clear out the home of someone they loved very much... If I had been allow a few days of bereavement [leave] I would have been able to take a longer period of leave during the summer to help my kids cope with the stress that the death of a close family member brings.” – Frankie

“I received a phone call whilst working, to tell me of the passing of [relative]... I took time off work from that day [using annual leave] and immediately had to go and attend to my own [living relative], who was struggling to deal with the loss. At the time, I had no choice but to put the needs of my family first and worry about work later. The first week was spent making funeral arrangements... [and] the following week was dealing with family members and helping them with their grief... I work part-time to care for [other living relative], so I was little wary of the amount of time I could allow myself from my annual leave, as other eventualities may arise.” – Maureen

In the worse cases, including for those in less-secure roles, workers may have to choose between taking time off to grieve or losing their livelihood. They may also be subject to inappropriate pressure from their employers to return to work soon after the death – sometimes being forced to use holiday or sickness absence just to attend the funeral.

“When my [relative] died I was needed to be present at the wake. I had to take sick days to accommodate this. It is frustrating to have this ‘sick’ period on my record given that it was due to bereavement. There is no flexibility at all and had I requested annual leave I would have been denied given the short notice. Is it any wonder we are all at crisis point with our mental health? I certainly felt I had to return to work, despite the funeral taking place the day previous.” – Erica

“My employer granted 3 days paid bereavement leave... However, I was at work until lunch time when I received a phone call informing me of my [relative's] sudden passing that morning. My

employer counted this as my first day of paid bereavement leave.” – Joanne

“I was entitled to 3 days paid leave. I ended up taking more time, as the run up to the death had been long and very difficult... [A]fter the death, I felt I was being pushed to return to work by my manager, who appeared to have no insight into the impact of the death on me, or the time I needed to come to terms with it.” – James

It is worth noting that, among the workers we spoke to, bad experiences were reported across different sectors of the economy. This should challenge the assumption that uncompassionate employer bereavement support is exclusively a problem in any one sector.

Overall, this evidence makes clear that many bereaved workers throughout Northern Ireland are not being given the time, space and financial security they need to grieve properly after the loss of a loved one. It is imperative that we act to level the playing field and ensure these workers are afforded the same minimum legal protections that will soon be available to bereaved parents.

Extending paid bereavement leave in Northern Ireland

The Coalition for Bereaved Workers is calling for the introduction of two weeks' statutory bereavement leave and pay for everyone impacted by the death of a close relative or partner in Northern Ireland. We believe this statutory provision would help to level the playing field for bereaved workers and ensure those who are currently falling through the cracks are afforded sufficient and paid time off when they lose a close loved one.

As a minimum, we would envisage this leave and pay entitlement being paid at the same level and under the same conditions as is proposed for parental bereavement leave and pay. However, we also believe the Assembly has an opportunity to be much more ambitious – delivering more progressive and comprehensive support for bereaved workers than exists in England, Scotland or Wales.

For instance, we would support a 'day-one' entitlement to bereavement pay, rather than excluding workers from this support if they haven't fulfilled a 26-week qualifying period. We would also be supportive of bereavement pay being earnings-related.

To ensure the proposals are affordable for employers, we believe a minimum percentage of statutory bereavement payments should be recoverable. We would envisage that the rate would be decided following a full economic assessment.

“Whilst I was off for 2 weeks, 5 days of this was special leave and the other 4 days was annual leave. I returned to work as I didn't have the leave to stay at home and didn't want to take it as sick leave, which was the other alternative (I was due to start my maternity leave and didn't want that to be impacted by sick leave). I was back to work too soon. I was not ready to face the world, but felt I had no other alternative but to put on a brave face... If at the time of [relative's] death, knowing that there would be special bereavement leave I think would have made things easier for me. I could have taken my time in coming to terms with the loss and not rushed back to the workplace where I spent my time 'hiding' in the office.” – Anita

The business and economic case for paid bereavement leave

There are a number of benefits to employers, and the wider economy, of providing paid leave for workers following a bereavement.

According to a 2018 survey from the Irish Hospice Foundation:

- More than half of workers would feel less committed to their job if they were not appropriately supported following a bereavement;
- 46% would take more sick days and 45% would feel ‘disgruntled’;
- 32% would think about leaving their job and 24% would actually leave.

[xii]

These issues can carry huge costs for employers and the economy.

‘Presenteeism’ – where someone is at work following a bereavement but unable to perform to their full capacity – is estimated to cost the UK economy £16bn per year. [xiii]

As the preceding pages illustrate, bereaved workers who aren’t appropriately supported may experience a worsening in their mental health. Mental ill-health is among the leading causes of workplace absence, [xiv] so not only is it uncompassionate for an employer to put pressure on their bereaved staff to return to work quickly, it may also be economically counter intuitive.

In the worse cases, bereaved workers who aren’t supported by their employer may ultimately decide to leave their job. Oxford Economics estimate that, across five job sectors (IT/tech, accounting, legal, media/advertising and retail), the loss of an employee earning £25,000 a year or

more carries an average cost of over £30,000 for employers. This is due to the logistical cost of recruiting and absorbing a new worker, and the cost of lost output while they achieve optimal productivity. [xv]

“I was given one day of paid time off when my [relative] died. One day was not enough and I was told I would have to take an unpaid day to attend the funeral. It did not benefit me as no one can be expected to grieve for a close loved one for only a day... It made me feel like the company did not care about the wellbeing of their staff and that entire year I felt burnt out due to lack of proper time off and rest. This was a major contributing factor to me finding alternative employment.” – John

As well as being the morally right thing to do, there is also a strong business case for ensuring workers in Northern Ireland have access to the paid bereavement leave they need.

“My [relative] died on the Saturday. When I called the boss to let him know, he asked me how long I needed simply so he could organise [workplace cover]. Between having to sort out various legal aspects and being devastated, I asked if I could take 2 weeks unpaid leave. He insisted I take 3 weeks paid leave. After 3 weeks, I hadn’t adjusted to the new reality of the gaping hole of [relative] not being with us had left, but I returned to work and gave it my all because of the empathy, understanding and care the boss and my colleagues had shown... [I]t certainly made me even more loyal to the [employer]... If employers in other sectors demonstrated a similar level of support when employees are suffering a bereavement, they’d reap the benefits in many other ways.” – Dorothy

The Coalition for Bereaved Workers NI is a new collective of charities and trade union representatives campaigning for statutory paid bereavement leave for everyone impacted by the death of a close relative or partner in Northern Ireland. CBW is coordinated by Marie Curie NI, with the following members: Action Mental Health, Alzheimer’s Society, Carers NI, CIPD (Chartered Institute of Personnel and Development), Cruse Bereavement Care, NIPSA and the Irish Congress of Trade Unions.

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