



**Submission to**

**Consultation on Parental Bereavement  
(Leave and Pay) Bill**

**August 2021**

## INTRODUCTION

1. UNISON is the leading trade union in Northern Ireland representing over 45,000 members and is the largest trade union in the UK with over 1.3 million members. Our membership includes public service workers in health and social care; the education and higher education services; the library service; local government; youth justice; private companies providing public services; and the community and voluntary sector. 84% of our membership in Northern Ireland are women.
2. UNISON believe that all workers experiencing Parental Bereavement should have the right to paid leave in a way that allows them to grieve in an appropriate and dignified manner. The Northern Ireland Executive have a duty to ensure that all employers accommodate this, and any legislation must be put in place must secure fairness of treatment to all workers, protecting them from discrimination or unfair treatment as a result of taking time off work to grieve.

There should be a legal entitlement to employee parental leave and pay (if eligible) in NI?

3. UNISON supports the move to create a legal entitlement to bereavement leave for parents in NI. However, we believe that this entitlement should incorporate all workers and employees who experience bereavement. At present, any period of bereavement leave and pay is at the discretion of the employee. Where compassion and understanding is the norm across employers, it is certainly not the case in every workplace. We, therefore, welcome the move to create this legal entitlement.
4. While this Bill is a good starting point at addressing this gap in legal entitlement, it only covers a small number of deaths and bereaved families as the average number of children per year who died in Northern Ireland from 2014-2018 was 245.<sup>1</sup> UNISON hopes that the Department for the Economy (DfE) develop this

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[https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/deaths\\_by\\_age\\_1955\\_2019.xls](https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/deaths_by_age_1955_2019.xls)

legislation further without hesitation to ensure that all workers and employees have a legal entitlement to bereavement leave and pay when experiencing the loss of any family member.

The definition of 'a parent' should extend beyond biological parents to 'primary carers'.

What is your view?

5. It is our belief that the definition of 'parent' or 'primary carer' should incorporate the many people in a child's life that hold parental or caring responsibilities. This should include, but not be limited to, step-parents, grandparents (both biological and non-biological) adoptive parents, foster parents and those with caring responsibilities for the child.

The Bill should apply to parents/ primary carers of a child up to the age of 18? What is your view?

6. UNISON ask that creating an upper age limit the definition of a child within this legislation is reconsidered. Any parent or carer experiencing the loss of a child at any age experiences an extraordinary loss, regardless of the age of their child. We would like to see legislation that allows all parents or care givers the time off to grieve with dignity and no loss of income, regardless of their child's age.
7. The loss of a child can lead to a loss of benefit for parents or care givers if the child has been in receipt of Disability Living Allowance or Personal Independence Payment, or the parent or care giver has been in receipt of Carers Allowance and Child Benefit. These benefits do not cease when a child turns 18. Indeed, Child Benefit can be paid up until a child's 20<sup>th</sup> birthday if they remain in approved Education or Training.
8. Furthermore, when considering means tested benefits such as Universal Credit and Housing Benefit can include young people under 25 and students as dependents for the purposes of non-dependent deductions. The current legislation for these benefits acknowledge the familial support young people of this age receive and therefore include them as "children" for the purposes of

benefit calculations. This loss of income can be mitigated against by ensuring that there is no loss of earned income.

9. While we welcome the inclusion of the tragic occurrence of a still born birth, we would ask that this legislation is extended to the loss of any child before birth through either still born or miscarriage. A parent experiencing loss through miscarriage can find themselves in a situation where they are grieving the loss of a child before they have had the opportunity to inform their employer of the pregnancy. These parents should be afforded the same legal rights and protections to paid bereavement leave in the same manner as any other parent or care giver experiencing the loss of a child.

The leave entitlement is for a period of at least two weeks. What is your view?

10. While UNISON welcomes the creation of this legal entitlement and accept that a two-week period of leave is an improvement for people in a workplace where no leave is currently offered, we would ask that a greater period than two weeks is considered to ensure that parents or carers can feel better prepared to return to work following bereavement leave without feeling the need to use sick leave or annual leave to cope with their grief. This will also increase the likelihood of further leave being required or further impact to the workforce occurring as the result of an employee or worker having to take another period of leave at a later date as they returned to work before being ready to do so.

The Bill will allow for two weeks leave to be taken together or in separate blocks of one week. What is your view?

11. No two people experience grief and loss in the same way and so we welcome the flexibility in approach to when the leave can be taken. Allowing a parent or care giver to take their leave in separate blocks affords them the chance to take leave at a time when they need it to grieve or deal with practicalities of the loss of a child. We therefore welcome that leave can be taken in separate blocks if needed.

12. While we note the difficulty from HMRC in allowing for leave to be taken in one day block as opposed to weekly blocks we would ask that DfE explore a flexible approach with HMRC to allow for this to be changed in the future.

Regulations to follow at a later date intend to allow for leave to be taken up to 56 weeks after the death of a child. Is this appropriate?

13. If legislation is to change to allow leave to be taken at a later date, we would ask that greater flexibility is considered with no time limit set. This would allow an employee or worker to take the leave as and when they require it, for example on the anniversary of the child's death or the child's birthday. Significant dates, such as these, can be triggering for someone who has experienced loss and so having the option to take bereavement leave at this time can be hugely beneficial to a parent or care giver.

What notice should be required very soon after the death of a child?

14. UNISON do not believe notice after the death of a child is appropriate for an employer to require after the death of a child. This can often be a sudden and unexpected loss as well as a highly traumatic experience for a family and so notice will often not be possible.
15. If an employee or worker is choosing to take their leave entitlement a number of days or weeks after the loss, for example to attend the post mortem, they should not be faced with the additional burden of being required to give notice of this. Indeed a parent or care giver may not decide until the day that they wish to attend or that the leave is required so soon after a death.

Do you consider that notice should be required if leave is taken at a later date?

16. In addition to the points raised above it must be considered that grief can be triggered without warning and cannot be planned for. We would, therefore, as that as much flexibility as possible is allowed for in this legislation. Notice requirements being legislated for will not allow for this leave to be utilised in the way it is intended or indeed for the purpose for which it is intended, leaving

parents and care givers taking spontaneous sick days as opposed to bereavement leave when their grief is affecting them most.

The qualifying period for bereavement pay will be 26 weeks' continuous employment.

What is your view?

17. UNISON strongly oppose any qualifying period being required before bereavement pay becomes an entitlement. While we welcome that Bereavement Leave will be a Day One right, we call for Bereavement Pay to also be a Day One Right. This has been explored as an option available via HMRC and while it will incur a substantial one-off cost to initiate it, we would urge DfE to allow bereavement pay as a Day One Right. A 26-week qualifying period will negatively impact agency worker, temporary and fixed term workers as well as workers on zero-hour contracts and others in precarious employment.
  
18. In the context of the Covid-19 Pandemic, we have unfortunately seen several businesses close or make significant cuts to their workforce with 10,720 redundancies proposed in the 12 months leading to December 2020.<sup>2</sup> Such drastic redundancies have resulted in a large number of people taking on new employment who would, therefore not be entitled to bereavement pay in their first six months of employment.
  
19. Given that enabling paid leave as a Day One Right is a possibility via HMRC we would call for this to be legislated for. If there continues to be a refusal to do so we would strongly encourage DfE, the Minister and Committee Members to work with colleagues in the Department for Communities and The Executive to establish a Social Security Benefit similar to Maternity Allowance for people who do not meet the 26 week continuous employment qualifying period and remove any qualifying periods which act as barriers to much needed financial assistance.

20. In addition to this we would ask that all financial pressures and burdens on bereaved families are alleviated by ensuring bereavement leave is paid at the full rate of pay to ensure that there are no financial barriers in place to parents and carers from taking this much needed leave.

What is your view that in order to receive payments an employee must give notice of when they are intending to take leave?

21. See paragraphs 14, 15 and 16.

What is your view that evidence to be provided for parental bereavement PAY should be in line with employer guidance?

22. Similar to requiring notice in order to be eligible for bereavement pay, UNISON believes it is wholly inappropriate to legislate for an employee or worker to provide evidence of their bereavement in order to access paid leave. It would be highly insensitive to require a parent or care giver to have to prioritise obtaining and providing evidence at a time where their grief and personal wellbeing should be their priority.

23. Furthermore, it places a burden on an employer to request this when they may wish to take a more compassionate and sensitive approach. UNISON do not believe that requiring evidence is in keeping with the intention of this Bill and strongly urge DfE to exclude the requirement for evidence from this or any future legislation.

## CONCLUSION

24. UNISON welcomes the introduction of the Parental Bereavement (Leave and Pay) Bill and largely supports the Bill in principle but ask that the concerns we have raised are given due consideration. We are willing to provide evidence to the Committee for the Economy and are happy to engage further with Committee Members on this legislation.

**For further information, please contact:**

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