

**Make Work Pay:  
Consultation on Leave for  
Bereavement including  
Pregnancy loss**

**TUC submission – January 2026**

## Background information

The TUC is the voice of Britain at work. We represent more than 5.5 million working people in 47 unions across the economy. We campaign for more and better jobs and a better working life for everyone, and we support trade unions to grow and thrive.

Our affiliated unions represent workers across a range of sectors in the labour market, both in the private and public sector, many of whom will have been affected by bereavement or pregnancy loss. Trade unions negotiate best practice workplace policies on bereavement leave and pregnancy loss, meaning we are in a unique position to know what support mechanisms and working practices are most effective for working people.

### **The commitment to introduce statutory leave for bereavement including pregnancy loss is welcome.**

#### *Scale and impact of bereavement leave and pregnancy loss*

7.9 million people in employment (24% of all employees) experienced a bereavement in the last 12 months.<sup>1</sup> A recent UNISON survey<sup>2</sup> found that 86% of their members had experienced a bereavement during their period of employment.

People respond to bereavement differently. But the grief that follows a bereavement may include difficult and unexpected emotions, from shock or anger to disbelief, guilt, and profound sadness. Intense grief can lead to loss of sleep and appetite, an inability to think clearly and in the most extreme cases, can lead to mental health conditions such as depression, eating disorders, anxiety and Post Traumatic Stress Disorder (PTSD).

A third of respondents to the UK Commission on Bereavement, in 2021, felt not at all or only a little bit supported by their employer. This has the potential for a significant impact on productivity and retention. 56% of employees in one survey said they would consider leaving their job if their employer did not provide proper support if someone close to them died.<sup>3</sup>

Therefore, it is welcome that employees will have access to a statutory period of leave to help them deal with the effects of bereavement.

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<sup>1</sup> Sue Ryder commissioned survey - conducted by Censuswide. September 2020. Survey of 1,000 working age adults, 1,000 Scottish working age adults and 500 bereaved people of working age in the last 12 months.

<sup>2</sup> UNISON membership survey to gather members' perspectives on the proposed right to bereavement leave and their experiences of taking leave following the loss of a loved one or pregnancy loss. The survey attracted 25,412 responses from UNISON members across a diverse range of sectors and regions.

<sup>3</sup> Employment Rights Bill: evidence for the Business and Trade Select Committee. 26 November 2024. Submission from Cruse Bereavement Support, Hospice UK, Marie Curie, the National Bereavement Alliance and Sue Ryder ([committees.parliament.uk/writtenevidence/132189/html/](https://committees.parliament.uk/writtenevidence/132189/html/).)

The TUC's Equality Audit 2024<sup>4</sup> found that just over a third (35 per cent) of union reps surveyed said that their employer had policies and procedures in place relating to leave for miscarriage and child loss above the statutory minimum. This often means that workers must rely on sickness or annual leave, which is wholly unacceptable and can lead to the triggering of sickness and absence scrutiny and disciplinarys.

Losing a baby at any stage of pregnancy can have devastating and lifelong impacts on a person's emotional and physical wellbeing as well as on their partner and families. The lack of provision for families experiencing miscarriage and other forms of early pregnancy loss such as ectopic pregnancy or molar pregnancy, and the stigma surrounding such loss leaves too many parents struggling with often little or no support to deal with their grief at work.

Pregnancy loss affects a quarter of all pregnancies, so many trade union members and workplace reps will have supported someone who has experienced pregnancy loss, and many will have experienced it themselves. The TUC recognises that more needs to be done to support families experiencing pregnancy loss and to close the gap in statutory rights that means that anyone who experiences pregnancy loss before 24 weeks has no entitlement to leave or pay, which is why we welcome these new statutory protections for pregnancy loss.

### *Statutory pay*

Bereavement can bring significant additional costs, including paying for the funeral, settling debts and adjusting to a very different family income, all while needing to maintain mortgage or rent payments. This is on top of short-term cash flow difficulties if bank accounts are difficult to access.

The TUC understands that the government's initial proposal is that bereavement leave should be an unpaid entitlement. Lack of paid leave entitlement is problematic for a number of reasons.

Low paid workers and those struggling financially will be unable to take a period of unpaid leave away from work. Research shows<sup>5</sup> that low-income workers are at higher risk of experiencing persistent grief, not only because of the relatively higher impact of financial losses post-bereavement, but because they face more barriers in accessing appropriate services and information to help them cope with grief. Sue Ryder's research and anecdotal evidence highlighted that the security of knowing that they are being given paid leave, without concerns of how they are being perceived or possibly penalised by employers, can give people the time and space to come to terms with their loss.

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<sup>4</sup> Equality audit/survey of national TUC affiliates. 43 of the TUC's 48 affiliates replied. The survey was completed by unions at the end of 2023.

<sup>5</sup> Newsom, C., Stroebe, M. S., Schut, H., Wilson, S., Birrell, J., Moerbeek, M., & Eisma, M. C. (2019). Community-based counselling reaches and helps bereaved people living in low-income households. *Psychotherapy research*, 29(4), 479 - 491. <https://doi.org/10.1080/10503307.2017.1377359>

A woman in her 40s whose mother died of a terminal illness, provided the following evidence to the UK Commission on Bereavement in 2021:

*"I was working for an employer on a zero hours contract, so to take time off to grieve my Mum and attend her funeral I wasn't paid at all. My Dad had to help my partner and I cover our rent at a time when he was also stricken with grief because I couldn't get any financial support (not entitled to benefits as I was technically still in work and my employer didn't offer me any paid compassionate leave whatsoever.)"*

Statutory parental bereavement leave is a paid entitlement. But newly introduced forms of bereavement leave will be unpaid. The government risks unnecessary confusion for both workers and employers. This will also create a hierarchy of bereavement with some forms of bereavement attracting enhanced entitlements.

Failing to provide statutory pay could undermine the government's policy intent of giving people the right to time off in bereavement and pregnancy loss situations.

It is not uncommon for employers to provide paid leave relating to pregnancy loss or bereavement.

Analysis of collective agreements held by the Labour Research Department shows that the highest number of days at full pay offered specifically in a miscarriage agreement is at Virgin Money, which provides for 10 days plus another 10 days at the manager's discretion.

Other agreements providing for 10 days' non-discretionary paid leave include Dover Fuelling Solutions, Leicestershire County Council, RSA Insurance Group (UK), RSPCA, Stagecoach Cambus (at Cambridge, Fenstanton and Peterborough), Suffolk Fire & Rescue Service, Tesco (retail), TSB and Virgin Media O2.

The National Education Union has reached agreement with Oasis Community Learning that goes beyond this. It provides anyone who loses a child under the age of 18 with 10 days' leave on full pay and a further 15 days' leave unpaid.

Usdaw has reached agreement with Tesco that staff experiencing miscarriage before 24 weeks are entitled to two weeks' leave at full pay.

The FDA, PCS and other relevant unions have negotiated a civil service-wide agreement that staff suffering miscarriage are formally entitled to support from Employee Assistance Programmes, civil service special leave provisions, flexible working hours and arrangements for supporting partners.

NHS England's new National Policy Framework encourages employers to offer up to 10 days' paid special leave to staff who experience a miscarriage.

Managers also recognise the benefits of paid leave. A survey in September 2024 conducted by the Chartered Management Institute found that 90% of the 897 responding managers agreed that paid bereavement leave should be a legal entitlement for employees.<sup>6</sup> Director of Policy at CMI, Petra Wilson suggested *“it is not just a matter of compassion, but also of workplace productivity and wellbeing. Providing paid leave allows employees to grieve and heal without the added stress of financial instability, ensuring they can return to work with the focus and support they need”*.

### *Employment status*

As it stands, only people with “employee” employment status will be eligible for statutory bereavement and pregnancy loss leave. This means that agency workers, casual workers and zero hours contract workers who suffer a bereavement or pregnancy loss could miss out from taking leave if their employer refuses them time off.

### *Statutory review*

The TUC believes the government should commit to carrying out a review of the effectiveness of the legislation, which includes a focus on how pay and employment status have affected the take up of the policy. This commitment should be given a statutory footing.

### *Developing further guidance*

TUC Northern region has worked with the Miscarriage Association to develop useful guidance<sup>7</sup> for both workers and employers on how to appropriately deal with pregnancy loss. We believe this guidance should be used, alongside further consultation with expert organisations like Miscarriage Association, post implementation, so that unions and employers have access to expert guidance.

## **Eligibility for Bereavement Leave for the loss of other relationships**

*Question 1 – Which relationships between the employee and the person who has passed away should qualify for the bereavement leave entitlement? Please select all that apply.*

The TUC supports option “(d)”.

It’s extremely welcome that the consultation recognises that *“family structures in modern Britain are diverse and evolving. The government is committed to ensuring the law reflects this reality. Blended families, extended families, shared parenting, and chosen*

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<sup>6</sup> Ibid. 3

<sup>7</sup> Miscarriage & Pregnancy Loss in the Workplace, Guidance for Reps, TUC Northern and Miscarriage Association, (<https://www.tuc.org.uk/sites/default/files/2024-10/TUC%20PL%20policy%20guide.pdf>)

*families (close friends and relationships that are not related but take the place of a traditional family) deserve consideration and recognition too. For example, a blended family may include step-parents, step-siblings and half-siblings or others who play a significant parental or familial role."*

Eligibility for bereavement leave should be broadly defined and based on the nature of the relationship between the applicant and the bereaved person rather than eligibility being rigidly defined by typical family relationship labels.

For example, unions have highlighted that carers should be included in the scope of relationships covered by the legislation. This would cover a broader range of relationships than already specified, and caring responsibilities are often already recognised in the workplace.

The consultation is welcome because it will draw out the wide range of relationships where bereavement/grief occurs.

Acas guidance should be developed to provide examples of the types of relationships which could be covered.

It's important that the regulations don't set out an exhaustive list of the types of relationships that are covered by the legislation.

*Question 2 – [if yes to option E] Please describe the types of relationships or roles that should be eligible]*

Not applicable.

## **Eligibility for Bereavement Leave for pregnancy loss**

*Question 3 – Should bereavement leave for pregnancy loss be restricted to the person who has physically experienced the pregnancy loss?*

No.

The primary legislation makes it clear that this bereavement leave right can apply to both pregnant women and their partners.

We would recommend these groups as being able to take this leave:

- a) 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
- b) The intended co-parent of the child who was expected to be born (who may not live with or be in a committed relationship with the pregnant woman or person) This could include ex-partners.
- c) Intended parents in a surrogacy arrangement

We also believe the government should consider if there are other family members who may be affected by pregnancy loss that should also be entitled to leave. Unions have flagged that grandparents can often be affected by pregnancy loss and that their

grief is recognised by charities who offer bereavement support to grieving grandparents in these situations.

*Question 4 – If your answer is no, who else should be able to take leave?*

Not applicable.

## **Types of Pregnancy Loss**

*Question 5 – Do you agree that all the types of pregnancy loss listed above by the Government should be eligible for bereavement leave?*

Yes.

*Question 6 – Are there any additional forms of pregnancy loss that should be included?*

Yes. Unions have suggested that the following types of pregnancy loss should also be within scope of the legislation.

- *Medical terminations conducted in accordance with the Abortion Act's supplementary provision 5(2). This provision was introduced in 1990s to clarify legality of selective termination and fetal reductions: where one or more fetus or embryo is terminated in a multiple pregnancy. This could be due to fetal anomaly, to maximise the viability of a pregnancy going to term, or to safeguard the parent or existent sibling's health.*

It would be unclear if selective terminations and foetal reductions qualify for pregnancy loss leave if the government's proposal to base eligibility solely on Section 1 of the Abortion Act 1967 is used, as that Section describe procedures which "end a pregnancy".

- *Any other Single Fetal Demise in Multiple Pregnancy. Where one or more fetus or embryo is lost in a multiple pregnancy and where the demise is not caused by medical termination.*

While the consultation lists "scenarios such as Vanishing Twin Syndrome" under "Miscarriage", the scope should be widened and clarity added here: as single foetal demise does not involve a miscarriage, and can occur in the second and third trimester (whereas Vanishing Twin Syndrome largely occurs in the first trimester).

Unions believe it is important that pregnancy loss situations that do not necessarily result in the loss of the entire pregnancy should also be explicitly covered.

We welcome the statement in the consultation that recognises the difficulties in compiling an exhaustive list of pregnancy loss situations that should be covered by the regulations. We hope the consultation will draw out further relevant types of pregnancy loss.

## **Duration of leave**

*Question 7 – How long should unpaid bereavement leave be?*

Two weeks.

Those who have experienced pregnancy loss should have equal rights to bereavement leave (two weeks) as those who lose a baby after 24 weeks – a loss is a loss, and there is no hierarchy of grief. The legislation should reflect this.

The guidance needs to be clear that bereavement leave is flexible and can be used in addition to other types of leave. All experiences of loss are different, and some physical experiences are more complex than others. Employees should have access to the leave and time off they need to recover, both physically and emotionally.

Parents who lose a baby before 24 weeks of pregnancy should have the same right to two weeks of paid bereavement leave as those who lose a baby after 24 weeks of pregnancy. No-one should assume their grief is less profound, or their loss is 'easier' to recover from.

It's vital that people have the choice between sick leave and the proposed unpaid bereavement leave, and the opportunity to use both when recovering, if needed.

*Question 8 – 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.

*Question 9- If you have selected “no”, what types of bereavement might require different leave arrangements?*

Not applicable.

*Question 10 – For bereavement leave, which of the following options for the leave entitlement to begin would be most appropriate?*

Option B, from the “date of knowledge of the death or pregnancy loss”.

There may be circumstances where the bereaved does not become aware of the death until after the date of death. Therefore, it is appropriate that right materialises when the person starts experiencing grief.

## **Flexibility to take the leave**

*Question 11 – Which of the following options for taking Bereavement Leave would be most appropriate?*

Bereavement leave should be available to be taken discontinuously; in whatever arrangement an employee requires. Grief and recovery after pregnancy loss is not linear, so the leave should be flexible to match this.

For example, someone may recover physically and return to work after a few days, but later, the grief and potential trauma they have experienced may impact them more than they expected. They should be able to take bereavement leave during this time, as they are processing their grief.

Just as there is no hierarchy of grief, there is no clock on grief, or physical and emotional recovery.

Discontinuous leave would also allow for leave to be taken to attend a funeral, mark an anniversary or special memorable day. Bereaved people may also need to attend an inquest related to the death and these can sometimes be one day duration.

There could also be unintended consequences of a bereaved worker having to take a whole week off when they just require one day of leave. This could cause unnecessary disruption to both the employer and worker.

## **Window to take the leave**

*Question 12 – Which of the following windows for taking Bereavement Leave would be most appropriate?*

The TUC believes there should be a longer duration, more flexible window to use the leave.

Unions have stressed that longer duration, flexible windows to take leave are needed, especially in the case of lengthy probate processes, inquests, or other inquiries which may take place over years where bereaved parties may have to give witness statements or evidence. Unions have flagged several inquiries such as the Infected Blood Inquiry, the Covid 19 Inquiry and the National maternity investigation which required workers to give evidence in relation to their bereavement.

Extended leave periods would also allow for bereaved workers to take bereavement leave on the anniversary of the funeral, for example.

## **Notice & evidence requirements (questions 13-17)**

### *Notice*

Any notice obligation placed on employees should be light touch in recognition of the traumatic and potentially sudden reason they need to take leave.

Employees should inform their employer as and when they are practically able to.

The onset of pregnancy loss, and its emotional impact, is unpredictable, so it is impossible to give notice in advance.

The format of the notice should be oral rather than written. The onus should be on the employer to keep a record of the notice being given.

For leave taken some time after the loss, it could be possible to give notice, however, this should not be a requirement, as for example, the onset of poor mental health after the event could be immediate and devastating, with no warning window to be able to provide notice.

Although there is a strong case for a 'light touch' approach to notice giving requirements, union members' experience highlights a risk arising from employers failing to record oral notice, which could be problematic if the giving of notice is disputed by the employer at a later date. Because of this the TUC believes that the legislation should introduce a safeguard to require the employer to provide sufficient time period for a formal notice to be submitted as soon as reasonably practicable after the bereavement and create an obligation on the employer to retain a written record of any notice received.

The government should replicate the approaches taken with similar employment rights such as the right to statutory parental bereavement leave, right to time off for dependents and the right to neonatal care leave. In particular, the right to statutory parental bereavement leave states that the worker can give oral notice on the day they wish to take the leave. And the right to neonatal care leave states that the worker gives notice ideally before the time they usually start work or *as soon as they can* afterwards.

Unions report that the NHS national pregnancy and baby loss people policy framework<sup>8</sup> also establishes a light touch notice procedure for employees and has not proved to be problematic for either employer or worker.

### *Evidence*

There should not be a requirement to provide evidence of bereavement or pregnancy loss.

This would risk heightening the distress experience by those suffering bereavement, but also mean the leave is harder to access, exhausting to get, and for early pregnancy losses, potentially impossible to provide. It would also be inequitable to ask for evidence of a pre-24-week loss when evidence is not required for taking leave following a loss post 24-weeks.

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<sup>8</sup> National pregnancy and baby loss people policy framework. 24 April 2024. (<https://www.england.nhs.uk/long-read/national-pregnancy-and-baby-loss-people-policy-framework/>)