

Written evidence submitted by Cruse Bereavement Support, Hospice UK, Marie Curie, the National Bereavement Alliance and Sue Ryder (ERB28)

Employment Rights Bill: evidence for the Public Bill Committee

1. This briefing has been prepared by Cruse Bereavement Support, Hospice UK, Marie Curie, the National Bereavement Alliance and Sue Ryder.
2. For more details about this briefing, please contact
 - Alison Penny, Coordinator, National Bereavement Alliance | apenny@ncb.org.uk
 - Matthew Whittle, Senior Policy Manager, Marie Curie | Matthew.Whittle@mariecurie.org.ukon behalf of the group.

Introduction

3. As charities working with bereaved people, we welcome the commitments in Make Work Pay and the Employment Rights Bill to introduce a right for employees for time to grieve. Many of our organisations worked on the passage of the Parental Bereavement Leave and Pay Act 2020.
4. For bereaved employees, the workplace can be a source of support, stability and compassion, allowing them to take paid time off when they need it, and supporting them to return and reintegrate into work. 43% of respondents to the UK Commission on Bereavement (UKCB) in 2021 felt very well supported by their employer¹.
5. But this experience is not universal, and between us, we hear many stories of grief going unrecognised and unsupported. A third of respondents to the UKCB felt not at all or only a little bit supported by their employer. This has the potential for a significant impact on

¹ UK Commission on Bereavement (2021) *Bereavement is everyone's business: summary report*. N = 697 https://bereavementcommission.org.uk/media/xube5elb/ukbc_summary_report_low-res.pdf

productivity and retention: 56% of employees in one survey² said they would consider leaving their job if their employer did not provide proper support if someone close to them died.

6. A key challenge is the availability of paid time off for employees. Censuswide polling (2023) carried out on behalf of Sue Ryder of 2,000 18+ respondents who experienced bereavement in the last two years, showed that almost 2 in 5 (40%) respondents said they received paid bereavement leave (up to two weeks) from their employer, while almost half (46%) said they didn't receive this. This shows that many people are missing out on support from their employer³.
7. The UK Commission on Bereavement found significant variation in the amount of time off, and paid time off, offered following a bereavement. It was clear that across and even within organisations, there were often not clear policies about bereavement leave, who was entitled to it and how long they could be away from work. This left people feeling unsure about the amount of time that they could take off, which created extra pressures. People reported going back to work before they were emotionally or physically ready with impacts on their physical and mental wellbeing. For some, this impacted their mental health or resulted in people ending their careers early.

The work policy on time off was vague and my efforts to get it improved proved fruitless. A colleague also suggested a holiday would help me "get over it".
Woman in her 40s, whose father died (cause not disclosed) (England)

I didn't know what was a fair amount of time to take and would have helped if I'd been given a parameter to work too. I returned to work rather than taking more time off.
Woman in her 40s (Wales). UK Commission on Bereavement, 2021.

8. We welcome the policy intent behind the new right to bereavement leave introduced in the Employment Rights Bill, and we see the potential for addressing the current insufficiency, variation and uncertainty in entitlements. However, there are a number of areas where we would like to see the provisions in the Bill strengthened. With these changes, we believe that the Bill will make a significant difference to employees' coping with grief, and to their engagement and retention in the workplace.
9. Our evidence and proposed draft amendments are in the areas of
 - [Duration of leave](#)
 - [The window within which leave must be taken](#)
 - [Flexibility of leave](#)

² National Council for Palliative Care (2014) *Life after death: six steps to improve support for bereaved people*. ComRes interviewed 4,038 GB adults online between 15th and 21st November 2013. Data were weighted to be representative of all GB adults aged 18+. ComRes is a member of the British Polling Council and abides by its rules. Full data tables are available on the ComRes website, www.comres.co.uk. See www.dyingmatters.org for more information on methodology.

³ Censuswide Executive Summary on Bereavement, The Research Consultants 2023 prepared for Sue Ryder.

- [Bereavement pay](#)
- [Definitions](#)
- [Bereavement policies at work.](#)

Areas for consideration

Duration of leave

10. The bill as currently drafted includes provisions for one week of bereavement leave. We believe this should be increased to a minimum of two weeks. Bereavement can have a significant impact on a person's ability to work and returning to work following the death of a loved one can bring challenges. It's also important to recognise that there are many practical tasks accompanying bereavement, including wide-ranging administrative tasks and planning and attending the funeral, on top of the emotional impacts.

11. New research carried out for Marie Curie's Better End of Life programme⁴ found that two thirds of recently bereaved people take time off work in the three months following their bereavement. Almost a quarter of those who took time off took at least 30 days. It is vital that bereaved people are not forced to return to work before they are ready, increasing the risk of disturbed grief and associated mental health impacts.

Maximum of 5 days special leave was allowed to deal with all aspects of the death - starting from day of death. Clearly whoever set that rule had never been through the process themselves. I had to take annual leave to attend my husband's funeral.

Woman in her 60s whose husband died of acute pancreatitis (England). UK
Commission on Bereavement, 2021

12. A survey in September 2024 conducted by the Chartered Institute of Management found that 28% of the 897 responding managers felt that employees should be entitled to 6-15 days of (paid) bereavement leave, with 25% feeling that this should be 1-5 days and 35% feeling it should be determined on a case by case basis⁵.

Suggested draft amendment

Employment Rights Bill Section 14 Bereavement Leave subsection (e)

For "at least one week's leave" substitute "for at least two weeks' leave"

Explanation: this amendment would change the Bill's amending of section 80EA of the Employment Rights Act 1996 so that bereaved employees were entitled to at least two weeks' leave, rather than one week's leave.

⁴ Marie Curie (2024) [Time to care: Findings from a nationally representative survey of experiences at the end of life in England and Wales](#)

⁵ Chartered Management Institute (2024) *The CMI Managers Voice September 2024: Managers Voice Pulse Point Poll*. The poll was conducted between 19th and 30th September 2024. A total of 897 managers answered questions about bereavement.

The window within which leave must be taken

13. We welcome the Bill's recognition of the diverse circumstances in which bereaved people may find themselves, and **that** the Bill does not require people to take their leave immediately following the death but gives them a window in which it can be taken.
14. The times when people may need to take bereavement leave from work fall into five broad categories:
 1. At the **time of death or in its immediate aftermath**
 2. Around dates associated with **religious or cultural observances around the death** (e.g. the funeral, Shiva, Nine Nights)
 3. Around dates associated with the **administration or investigation of the death** (e.g. registering the death, attending an inquest). There are significant concerns about delays to inquests and in 2023, over 6,000 cases were still not concluded, more than a year after being reported to the coroner⁶. This was an increase of 28% on the previous year. The Chief Coroner has set out a number of reasons contributing to these unacceptable delays, including underfunding of the coroner service and a national shortage of pathologists⁷. For the purposes of this Bill, the substantive point is that for employees bereaved in the most traumatic and complex circumstances, a 56 day window will simply not be sufficient.
 4. Around particular, **fixed dates in the calendar**, which could include the birthday of the person who died or the anniversary of their death, Mothers' or Fathers' Day, religious festivals (e.g. Christmas, Eid). In the year following the death, people have to face these dates for the first time without the person who has died. In the second year, these dates can be just as painful, as the reality begins to sink in that this is how life will be.
 5. When someone is simply **struggling with their loss** and needs time to grieve.
15. Ideally, we would like to see no limit to the time over which the leave can be taken, in recognition of the ongoing impact of grief. However, as a starting point we would prefer the minimum window of opportunity to be extended, to give employees greater choice about when they take their leave. We would like to see the minimum window on the face of the Bill extended from 56 days to 56 weeks, to include all key dates in the first year following the death, including the anniversary of the death itself.
16. For bereaved parents, these arguments were put forward during consultations and were accepted by the government, resulting in the longer window being included in the

⁶ Report of the Chief Coroner to the Lord Chancellor. Annual Report for 2023.

<https://assets.publishing.service.gov.uk/media/664c5701f34f9b5a56adcb16/chief-coroner-annual-report-2023.pdf>

⁷ Extraordinary Report of the Chief Coroner: The coroner service 10 years post-reform. Annex B to the Annual Report for 2023

<https://assets.publishing.service.gov.uk/media/664c5701f34f9b5a56adcb16/chief-coroner-annual-report-2023.pdf>

Parental Bereavement Leave and Pay Regulations 2020, following consultation. We urge the government to make similar provision in the current Bill. Extending the window in the primary legislation would provide greater security to bereaved employees.

17. We are conscious that employers need to plan to cover their employees' absence. However, we do not believe that extending the window during which leave can be taken would have a significant impact on employers. The exact timing of most deaths is not expected and so whatever the length of the window, many bereavement absences will be arranged at very short notice.
18. We believe that the benefits to bereaved people of extending the window outweigh the implications for employers. Extending the window would incur no extra cost to the taxpayer.

Suggested draft amendment

Employment Rights Bill Section 14 Bereavement Leave subsection 3 after subsection (f) insert new clause

(g) in subsection (6) for "56 days" substitute "56 weeks"

Explanation: this would amend section 80EA of the Employment Rights Act 1996 so that the minimum window within which bereaved employees should take their leave would be extended from 56 days to 56 weeks. Subsection 5 (4) of the [Parental Bereavement Leave and Pay Regulations 2020](#) already specify this period of 56 weeks, which was introduced in response to consultation submissions from bereaved parents and others. Specifying this period in the primary legislation will afford more ongoing protection for employees.

Flexibility of leave

19. As outlined above, there are many different circumstances in which people may wish to take their bereavement leave. Being able to take one or two days at a time could help bereaved people to stay in work, and employers to manage cover more flexibly.
20. However, we understand the current proposed structure of bereavement leave means that it would have to be taken in a block of one week. This mirrors the provision for bereaved parents, who must take their Parental Bereavement Leave at a minimum of one week at a time. We understand that this structure was dictated by the requirements for statutory pay, which could only be provided in blocks of one week minimum.
21. The current proposals for general bereavement leave do not include statutory pay, and so we do not see why they should be subject to the same restricted structure.
22. We are also advocating for the introduction of statutory pay. If this is introduced, we urge the government to explore options that would allow it to be paid more flexibly (thus allowing for the leave to be taken more flexibly.). For example, could employers draw down the statutory pay from HMRC in one-week blocks, but administer it more flexibly to the employee?

Suggested draft probing amendment

Employment Rights Bill Section 14 Bereavement Leave after subsection 14 insert new clause

- 15) An employee may choose to take a number of days' leave between one and fourteen.

Explanation: this would increase the flexibility of the leave that can be taken, such that employees are not required to take a minimum of one week at a time. Further consequential amendments would be required.

Bereavement pay

23. This bill does not currently include any provision for bereavement pay. Terminal illness can cause a significant reduction to a household's income. For example, if the person living with a terminal illness or another household member needs to reduce or stop working due to health or caring responsibilities. At the same time, it can also have significant impacts on expenditure, with costs like energy, transport and childcare often increasing dramatically. Marie Curie research has found that 111,000 people a year die in poverty.
24. We also know that poverty at the end of life doesn't only affect the dying person – it affects the whole household. Bereavement brings 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.
25. It is also important to consider this from an equity perspective. Without pay, certain groups of people, including those on low pay or experiencing financial hardship, may not feel able to take up their entitlement to leave, undermining their policy intent of giving people the right to time off to grieve. The introduction of unpaid Carers' Leave in April 2024 is salutary: while the policy intent is welcome, recent research from Carers UK has found that more than half (56%) of working carers cannot afford to take their entitlement⁸.
26. It is therefore vital that this bill ensures bereavement leave is paid so that people can mourn without worrying about ending up in further financial hardship.
- 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.)*

⁸ Carers UK (2024) *State of Caring 2024: The impact of caring on employment*
<https://www.carersuk.org/media/qlsly1mc/state-of-caring-employment-web-2024.pdf>

Woman in her 40s whose mother died of a terminal illness (England). UK
Commission on Bereavement (2021)

27. A survey in September 2024 conducted by the Chartered Institute of Management found that 90% of the 897 responding managers agreed that *paid* bereavement leave should be a legal entitlement for employees⁹.

Suggested draft amendments

After Section 14 Bereavement Leave insert new Section 15 Bereavement Pay.

- 1) The Social Security Contributions and Benefits Act 1989 is amended in accordance with subsections (2) to (10)
- 2) Part 12zD heading omit “parental”
- 3) 171ZZ6 Entitlement
 - a) in subsection 2a for “parent” substitute “person”
 - b) in subsection 2c for “child” substitute “person”
 - c) in subsection 3 for “bereaved parent” substitute “bereaved person”
 - d) in subsection 3 for “child” substitute “person”
 - e) delete subsection 4
 - f) in subsection 5 for “child” substitute “person”
 - g) in subsection 6 for “child” substitute “person” in both instances
 - h) in subsection 7 for “parent” substitute “person” and for “child” substitute “person”
- 4) 171ZZ7 Entitlement: supplementary: omit all instances of “parental” in subsections 1 to 3
- 5) 171ZZ8 Liability to make payments: omit all instances of “parental” in subsections (1) to (3)
- 6) 171ZZ9 Rate and period of pay: omit all instances of “parental” in subsections (1) to (11)
- 7) 171ZZ10 Restrictions on contracting out: omit all instances of “parental” in subsections (1) to (2)
- 8) 171ZZ11 Relationship with contractual remuneration: omit all instances of “parental” in subsections (1) to (3)
- 9) 171ZZ14 Supplementary

⁹ Chartered Management Institute (2024) *The CMI Managers Voice September 2024: Managers Voice Pulse Point Poll*. The poll was conducted between 19th and 30th September 2024. A total of 897 managers answered questions about bereavement.

a) in subsection (1) omit ““child” means a person under the age of 18 (see also section 171ZZ15 for the application of this Part in relation to stillbirths)”

b) in subsection (10) (f) omit “parental”

10) 171ZZ15 Application in relation to stillbirths

a) in subsection (a) for “references to a child include a child stillborn after twenty-four weeks of pregnancy” substitute “references to a person include a child stillborn after twenty-four weeks of pregnancy”

b) in subsection (b) for “references to the death of a child are to be read, in relation to a stillborn child, as references to the birth of the child.” substitute “references to the death of a person are to be read, in relation to a stillborn child, as references to the birth of the child.”

11) Schedule Parental Bereavement Leave and Pay Part 3 is amended in accordance with subsections (12) to (13)

12) for all instances of “parental bereavement pay” substitute “bereavement pay”

13) for all instances of “paid parental bereavement leave” substitute “paid bereavement leave”

Explanation: these amendments would extend statutory bereavement pay from parents to other bereaved employees.

Definition of close relative or friend

28. The bill does not define a "close relative," which determines who is eligible for bereavement leave under the proposed legislation. There are concerns that the definition of "close relative" in the bill could be too restrictive and there is a need for a broader and clearer definition that includes not only immediate family members (such as parents, siblings, or children) but also other important relationships that might be deeply affected by a death (such as spouse/ partner). There is a need for a definition that is compassionate, flexible, and recognises the complex nature of relationships and grief, ensuring that more people receive the support they need in their time of loss in the workplace.

Requirement for employers to have a bereavement policy

29. To ensure equitable implementation of bereavement leave, it is crucial for all employers to establish a bereavement policy. Findings indicate that across organisations large and small, the way in which bereavement is talked about between employers and employees

varies depending upon the individual compassion and understanding of the line manager. This creates considerable inequity and inequality. Marie Curie surveyed 400+ HR professionals and found that just one in three employers had a dedicated bereavement policy, while the rest included information within other policies or their staff handbook¹⁰. This finding is not dissimilar to other research. McGuinness's (2009) review of bereavement practices across 34 Irish employers found that most (88%) did not have standalone bereavement policies or guidelines for staff and line managers on procedures and best practice¹¹.

30. Bereavement policies and processes would enable organisations to support bereaved employees proactively and consistently, offering fairer access to time off following a death. Additionally, organisations would be more likely to invest in guidance and training for their employees, fostering a compassionate and psychologically safe working environment that facilitates the return of bereaved employees to work.

31. Bereavement policies also play a vital role in raising awareness and understanding of how grief impacts individuals both in their daily lives and at work. The requirement for a bereavement policy would place the onus on employers to clearly indicate how they engage with an employee's bereavement. This safeguards the employer, the employee, and the manager or Human Resources professional talking with the employee. The requirement for a workplace bereavement policy not only supports the bereaved employee but also benefits the community around them, contributing to the development of compassionate organisations equipped with the necessary guidance, knowledge, and resources to support employees during their most vulnerable moments.

Suggested draft probing amendment

Section 14 Bereavement Leave after subsection (14) add new subsection

- (15) It shall be the duty of every employer to provide
- (a) A written statement of their general policy with respect to bereavement
 - (a) training and support for line managers in supporting bereaved employees.

Explanation: this amendment would introduce a duty on employers to produce a bereavement policy and training and support for line managers in supporting bereaved employees.

26 November 2024

¹⁰ Marie Curie (2021) *Respecting and supporting grief at work*. https://www.mariecurie.org.uk/globalassets/media/documents/how-we-can-help/bereavement-hub/respecting-and-supporting-grief-at-work_sep-2021.pdf

¹¹ McGuinness, B (2009). Grief in the workplace: Developing a bereavement policy. *Bereavement Care*, 28 (1)