

**Briefing number 035 v3** – September 2018

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## Bereavement and the workplace

Prospect has supported Lucy Herd, of [Jack's Rainbow](#), in her campaign for a statutory right to paid bereavement leave. Her campaign has been successful and the Parental Bereavement (Leave and Pay) Act 2018 received Royal assent on 13 September 2018.

This means that there will be a new workplace right to leave for bereaved parents which is expected to come into force in 2020. The new Parental Bereavement Leave and Pay Act will give all employed parents a day one right to 2 weeks' leave if they lose a child under the age of 18, or suffer a stillbirth from 24 weeks of pregnancy. Employees with 26 weeks' continuous service will be entitled to paid leave at the statutory rate and other employees will be entitled to unpaid leave.

Prospect officers and reps are encouraged to ensure that bereaved parents receive full pay for this leave, and continue to take account of the good practice guidance outlined below as well as the guidance produced previously by ACAS before this legislation was introduced: ["Managing bereavement in the workplace - a good practice guide"](#) .

Bereavement can affect every aspect of a person's well-being, including their emotional, physical and psychological health. An employee who is bereaved may need to take time off unexpectedly and their performance at work may be impacted. The relationship with the person who died and the circumstances of the death will all have an impact on the employee, particularly if the death was sudden or traumatic. Other people in the workplace may also be affected, e.g. colleagues and line managers/HR. Whilst the law allows for time off for parental bereavement with effect from 2020 (see above), for other types of bereavement the law allows for "reasonable" time off to deal with an emergency involving a dependant. This is a minimal right which does not specify how much time off is reasonable nor does it allow for paid leave (see Prospect members' guide on [parental and family leave](#)). However, the majority of employers across Prospect membership areas will offer paid special leave or compassionate leave.

If an employer does not react compassionately and supportively towards a bereaved employee, this may add to the individual's stress levels resulting in additional time off work to recover. The way an employer responds to a bereaved employee will be seen by the rest of the workforce and influence their own feelings of loyalty towards the organisation. It is therefore good practice for employers to be prepared for such situations by introducing a bereavement or compassionate leave policy.

The guidance published by ACAS (see above and box) includes good practice guidance for employers and also contains a model policy. The guidance incorporates advice to employers to ensure trade unions are involved in developing the policy.

### **Good practice**

Negotiators and reps should bear in mind the following points when negotiating or revising a policy:

- Ensure that any bereavement/compassionate leave is paid. Most organisations provide 5 days paid leave, but negotiators and reps are encouraged to improve upon this for bereavement of a close family member. See above the new provisions for paid parental bereavement leave.
- If extended leave is needed, for example a longer recovery time is required or the individual needs to attend a funeral abroad, then they should have the choice of taking annual leave or unpaid leave.
- Establish how the line manager/HR will keep in touch with the bereaved member, i.e. they may prefer telephone contact or email.
- Ensure that the individual is consulted about how and what to tell colleagues.
- Ensure that cultural issues are taken into account, i.e. some faiths have particular rites associated with death and funerals, e.g. the Jewish faith requires 7 days' mourning after the death (also see below).
- Ensure there is regular, but not intrusive, contact and that there is the opportunity to discuss a return to work strategy.
- The impact on the individual may be such that they may need some temporary, or more permanent, adjustments to their work, e.g. a redistribution of some aspects of work, flexible working arrangements.
- Ensure that there are regular reviews.
- Support in terms of a referral to either an internal or external counselling service.

The ACAS advice covers:

- Grief does not have predicted stages and phases. Everyone reacts differently & this should be understood and respected by both employers & colleagues.
- Employers can prepare for managing bereavement in the workplace by having a clear policy and training managers, HR teams and selected staff to have compassionate and effective conversations with bereaved colleagues.
- A calm empathetic approach in all communications from managers will ensure employees feel supported and minimise their anxiety about returning to work.
- Some employees feel able to return to work very swiftly, whilst others may need more time.
- It is often difficult for bereaved employees to judge how they will feel in the workplace and a swift return to work does not necessarily mean that an employee will not need support.
- There are likely to be ups and downs as a person suffering grief adjusts to life without the person they lost. The full emotional impact of the bereavement may not be felt for some time after a death.
- Employers need to be mindful of the family unit of the bereaved and appreciate that in many cases a flexible approach such as offering part-time hours or flexible working is more likely to support and retain the employee and minimise sick days as they negotiate new or increased caring responsibilities.

- There may be an increase in absence/sickness levels, especially in the first year after a bereavement, and so measures should be put in place to discount this in any trigger mechanisms for disciplinary action.
- Ensure that any bereavement is taken into account in any performance or development reviews, particularly if this is linked to pay.
- Ensure that all managers are appropriately trained in implementing the policy.

Whilst there should be some flexibility in dealing with a bereavement, since individuals react differently to grief, there also needs to be some consistency of approach so that colleagues feel they are not being treated less favourably than others in similar circumstances. A workplace policy would set some parameters for line managers and colleagues to follow.

### **Equality considerations**

Negotiators and reps should bear in mind that any “less favourable treatment” may amount to discrimination under the Equality Act 2010 for example:

- A woman whose employer has refused a request for flexible working arrangements because of increased levels of caring responsibilities due to a recent bereavement may be able to claim indirect sex discrimination.
- Most religions will have customs associated with dealing with death, and a refusal to allow observance of mourning/funeral rites may be discrimination based on religion or belief.
- For a disabled employee, dealing with a bereavement may exacerbate a pre-existing condition (e.g. depression) or they may develop a long-term problem as a result of their loss. If the member fits the definition of disability under the Equality Act then the employer is under a duty to make reasonable adjustments for them. See Prospect’s [Negotiators’ Guide to Disability Equality](#) for further advice on definitions and reasonable adjustments.

Employers would be required to justify their treatment of the individual concerned. Prospect negotiators and reps should therefore consider whether there is a possible claim under the Equality Act.

Negotiators and reps are urged to ensure that a policy exists in their workplace covering bereavement, building on the good practice guidance provided by ACAS and the points outlined above.

### **Resources and Links**

Anyone personally affected by bereavement that needs to speak to someone can call the Cruse helpline on 0844 477 9400 or contact at [helpline@cruse.org.uk](mailto:helpline@cruse.org.uk) Their website also has valuable advice for both managers and employees: <http://www.cruse.org.uk/bereavement-at-work/>

Jack’s rainbow: support and advice for families who have lost a child (see link above).

Prospect members’ guides on [parental and family leave](#) and [part-time and flexible working](#)

[Working Families](#) Changing the way we live and work: this is the UK's leading work-life balance organisation. The charity helps working parents and carers and their employers find a better balance between responsibilities at home and work.

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