

Managing Grief and Loss at Work

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Most people will suffer a bereavement at some point in their working life. Every relationship and working situation is different, so there is no one particular way to handle the impact of bereavement on your work. However, there are some legal entitlements and best practice guidance to assist you in managing this difficult time.

Do I have a right to time off?

If you are an employee, you have a right to take a reasonable amount of time off work following the death of your dependent.

A “dependent” is classified as:

- your husband, wife, civil partner or partner;
- your child (see below if the child is under 18);
- your parent;
- a person who lives in your household but is not a tenant, lodger or employee; and
- a person who relies on you, for example an elderly neighbour.

Following the death of one of these dependents, the law does not specify how much time off you are entitled to, just that you are entitled to “reasonable” time off. What is reasonable is inevitably a fact specific question but is likely to, at a minimum, enable you to take time off to arrange and attend the

funeral. If you need to take more time off, for example to make further practical arrangements or to take some time to come to terms with your loss, you should speak to your employer and seek to agree how much time you can take.

If you are an employee and your child is stillborn after 24 weeks of pregnancy or dies under the age of 18, you are permitted to take up to two weeks Parental Bereavement Leave. This leave is available in addition to maternity and paternity leave in the case of stillbirths. There is a separate two week period of leave available for each child.

In these circumstances, you will be the child's parent if you are their biological parent, adoptive parent, prospective adopter, intended parent under a surrogacy arrangement, a parent "in fact" (i.e. you have been looking after the child in your own home for the past four weeks), or that person's partner, but not a paid carer.

The two weeks' leave can be taken in one or two week blocks at any time in the 56 weeks after the stillbirth or death of your child. During the first eight weeks you only need to inform your employer that you intend to take Parental Bereavement Leave before the first day of absence. However, in weeks 9 to 56 you must give at least one week's notice.

If the person who has died does not meet the definition of dependent, then you do not have a legal right to take time off. However, many employers now recognise that families and relationships come in many different forms and so your employer may have a compassionate leave policy, under which you can take time off following the bereavement of other members of your family or your friends.

If your employer does not have a compassionate leave policy, in the first instance you should speak with your line manager or HR to discuss your need for time off and seek to agree how much you can take.

If I take time off, do I have the right to be paid?

There is no right to take paid time off following a bereavement other than if you are taking Parental Bereavement Leave. Therefore, whether you will be paid is a matter of discretion for your employer. In the first instance you should check your Staff Handbook to see whether there is a policy setting out your entitlement to pay. If there isn't a policy, speak to your line manager or HR about what has been done in the past or what may be agreed for you given your circumstances.

If you are taking Parental Bereavement Leave, you may also be entitled to receive Statutory Parental Bereavement Pay. You will be eligible if you satisfy the definition of parent set out above, have been employed for at least 26 weeks prior to the week in which your child died, remain in employment on the date your child died and have been paid at least the lower weekly earnings limit in the eight weeks prior to your child's death.

Statutory Parental Bereavement Pay is paid at the prescribed rate for other types of family leave, which in the tax year 2023-2024 is £172.48.

What happens when I return to work?

Underlying all employment relationships is a duty of mutual trust and confidence. This means that your employer should offer support to you following a bereavement. However, it is important that you tell your employer what you need.

Some things to consider are:

- What do you want your colleagues and clients to be told about your bereavement?

- Do you have any religious or cultural requirements or traditions that you need to respect which will have an impact on your ability to work?
- How much do you want to talk about your bereavement following your return to work?
- Are there any particular practical challenges that you need help with going forwards, for example do you now have increased childcare or other caring responsibilities?
- Are you going to need more time off in the future to deal with the probate or other practical matters?
- Do you have any particular vulnerabilities or medical conditions that could be exacerbated by the stress of bereavement?
- Does your employer have an Employee Assistance Programme that can offer you support?

Grief is an ongoing process which will affect everyone differently. There is no time limit on grief and it may have an ongoing impact on you. If this is the case, discuss this with your line manager and/or HR on an ongoing basis so that they can support you. At the end of the performance year, explain in your self-assessment the impact that your bereavement has had on you so that this can be taken into account in your performance assessments.

As grief is not linear, it will affect you differently at different times. If you feel comfortable doing so, tell your line manager or HR when an anniversary is approaching and let them know what type of additional support you will need around that time.

While this is the case in most employment scenarios, but especially following bereavements, communication is key. Most

employers want to support their staff in difficult times, but first they have to know what you want and need.

BDBF is a leading employment law firm based at Bank in the City of London. If you would like to discuss any issues relating to the content of this article, please contact Clare Brereton (ClareBrereton@bdbf.co.uk) or your usual BDBF contact.