

<b>Title:</b> Parental Bereavement Leave and Pay <b>IA No:</b> BEIS020(F)-17-LM <b>RPC Reference No:</b> <b>Lead department or agency:</b> Department for Business, Energy and Industrial Strategy <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> May 2018			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
	<b>Contact for enquiries:</b> Kate Millward, Shelley Torey			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Not Applicable
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2016 prices)	One-In, Three-Out	Business Impact Target Status
-£29.34m	-£12.85m	£1.2m		

**What is the problem under consideration? Why is government intervention necessary?**

In 2016 there were 7600 child deaths including 3300 stillbirths in Great Britain affecting approximately 14,000 employed parents. There is no statutory leave entitlement specifically for bereaved parents. The Government wants to ensure that all employed parents have the opportunity to have time away from work to grieve for a lost child, whilst recognising that managing grief in the workplace can be extremely difficult for employers. In some cases employers may not be as sympathetic and flexible as some might expect in responding to employees' requests for leave in these situations. The Government has therefore chosen to support a Private Members Bill which will give employees who lose a child between the age of 0-17 years old, or who suffer a stillbirth, a day-one right to 2 weeks leave and pay (subject to fulfilling the pay qualification period) in order to have time away from work to grieve. This will also provide a level of certainty for employers in terms of what they can do for their staff in these circumstances.

**What are the policy objectives and the intended effects?**

The proposed introduction of Parental Bereavement Leave and Pay aims to:

- Give bereaved employees the statutory right to paid leave to provide space for them to grieve following the death of a child.
- Send a signal to employees and employers about the importance and value of recognising bereavement and providing adequate support and space to parents in such circumstances.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Proposed Policy: Introduce a statutory right to two weeks leave paid at the current statutory rate of £140.98 per week or 90% of average earnings (whichever is lower). Leave and/or pay to be taken before the end of a period of at least 56 days beginning with the date of the child's death.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 2025				
Does implementation go beyond minimum EU requirements?			Yes	
Are any of these organisations in scope?			<b>Micro</b> Yes	<b>Small</b> Yes
			<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b>	
			<b>Non-traded:</b>	

**I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.**

Signed by the responsible Minister:  Date: 14/05/18

# Summary: Analysis & Evidence

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2017	PV Base Year 2020	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -£44.14	High: -£13.50	Best Est: -£29.34

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£4.8	£4.5	£44.1
High	£4.8	£6.8	£63.3
Best Estimate	£4.8	£5.9	£56.2

#### Description and scale of key monetised costs by 'main affected groups'

One-off costs (best estimates)

Employers: familiarisation costs of £4.8m. Exchequer: estimate from HMRC suggests cost of updating systems (IT delivery, resource costs and telephony costs) are approximately £2.1m.

Recurring annual costs (best estimates)

Employer: £2.56m (made up of £2.2m reorganisation costs, £0.12m wage-like costs and £0.23m recurring admin costs). Exchequer: £3.0m (ongoing-statutory payment costs minus amount that businesses cannot recover) and £0.19m recurring administrative costs.

#### Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£2.2	£19.2
High	0	£3.6	£30.6
Best Estimate	0	£3.1	£26.9

#### Description and scale of key monetised benefits by 'main affected groups'

Additional payments to parents who take Parental Bereavement Leave and Pay of £2.14m.

Reimbursement of proportion of the statutory rate to businesses that already have a paid Parental Bereavement Leave scheme in place of £0.98m.

#### Other key non-monetised benefits by 'main affected groups'

Employed parents will have access to a minimum length of leave and pay available to them to take before the end of a period of at least 56 days beginning with the date of the child's death. They will benefit from having time to grieve without having to take other forms of leave (e.g. annual leave or unpaid leave). Specific entitlement for bereavement helps employers and employees to recognise the importance of the situation and create a minimum standard for an issue which is difficult to navigate for employers and employees.

Key assumptions/sensitivities/risks

Discount rate

3.5

Assumptions were refined using evidence from the consultation; however, a degree of uncertainty still exists around the take-up assumptions (ranging from 100% to 62.5%).

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs:	Benefits:	Net:	

# Evidence Base (for summary sheets)

## 1. Problem under consideration:

1. In 2016 there were 7600 child deaths including 3300 stillbirths in Great Britain affecting approximately 14,000 employed parents. Losing a child will impact on almost every aspect of a person's life and each bereaved parent will react differently. Many bereaved parents may find they are temporarily unable to perform their job effectively or will need time away from work to grieve for their child with other family members. This may not necessarily be an immediate reaction, however, and some parents may only experience this once the reality of the situation sets in at a later date.
2. Whilst many employers manage this situation with compassion, anecdotal evidence suggests that there are some who do not respond in this way and this can have a devastating impact on the individuals involved, especially those who feel they need the time away to grieve. There is currently no statutory right to time off specifically for parental bereavement. The Government acknowledges that some parents may nevertheless need time away from work in these circumstances.
3. Under existing leave entitlements, bereaved parents may be eligible for other leave depending on their personal circumstances, such as annual leave. Although employers can decline a request for annual leave to be taken at a certain time, they cannot refuse to let workers take the leave at all. Workers in the UK are entitled to a minimum of 5.6 weeks paid annual leave per year if they work full time and a proportionate amount if they work part time (equivalent to 28 days for full-time workers). However, in some cases people are unable to take annual leave, or it may not be possible for them to take unpaid leave due to their financial circumstances.
4. The Employment Rights Act 1996 provides for a "day one" right for an employee to have 'reasonable' time off work to deal with family emergencies. This includes time off to make arrangements, such as organising a funeral, following the death of a dependant, though it is not intended to provide time off to grieve. An employer is not under a statutory obligation to pay an employee for this time away from work, but in some cases employers offer paid special or compassionate leave.
5. In the absence of a statutory entitlement to bereavement leave for parents the situation varies quite considerably: some employees may already be entitled to special or compassionate leave if their workplace has a contractual policy which allows compassionate leave in these situations (or the employer may allow compassionate leave on a discretionary basis). At the other end of the spectrum, employees may find they are unable to take annual leave and their employer does not have a special leave policy relating to bereavement. There appears to be large differences in what is currently offered to employees when they suffer a bereavement with the situation tending to be managed at the discretion of the employer and line managers.
6. In order to support all employees, the Government proposes to introduce a day one right<sup>1</sup> to a two-week statutory leave entitlement. This will be paid at 90% of average weekly earnings or at the statutory flat rate (£140.98 in 2016-17) per week, whichever is lower (subject to the employee satisfying a 26-week qualifying period for the pay). This specific standardised provision aims to provide a clear baseline for employers; to protect those employees that may otherwise not receive this level of compassion from their employer.

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<sup>1</sup> A 'day one' entitlement means that an employee would be eligible for bereavement leave regardless of length of service with their current employer.

## 2. Rationale for intervention:

7. In general, provision of minimum standards ensures that societal benefits can be realised in cases where, without government intervention, they would not. When societal benefits are not realised, there is inefficiency in the market where the private returns to an individual or firm from carrying out a particular action differ from the returns to society as a whole. Governments intervene in order to correct this inefficiency. For example, the provision of Shared Parental Leave supports employees to maintain their work-life balance and start a family whilst remaining in work. This benefits society through ensuring satisfied, engaged and productive employees, a healthy workforce and parents with a continued attachment to the labour market. Without minimum statutory entitlements in this area, there may only be weak incentives for employers to provide a similar standard of leave due to the costs they would face. In these circumstances the societal benefits of leave would not be realised.
8. The same applies to the role for Government in providing minimum statutory provisions for Parental Bereavement Leave and Pay. There are benefits to the individual affected and to society due to parents taking time away from work to grieve for a child. In particular, time away from work can help parents deal with the immediate aftermath of the death and support other family members such as siblings of the child who are likely to need considerable support. It provides the family with some space to help them come to terms with the devastating situation in the short-term, which may provide a sound foundation to help them come to terms with their loss in the longer-term. In the absence of standard minimum requirements, with the provision of leave at the discretion of individual employers, some of these benefits may not be realised. Research from CRUSE<sup>2</sup> suggests that 1 in 10 employees experience bereavement of any type (i.e. any family member or friend) at any one time, which highlights the wide potential impact of bereavement on families and employers. Employers, and people in general, find it difficult to know how to respond to a bereavement, and this is likely to lead to discrepancies between the support provided in individual cases, particularly with regards to different firms, but even within the same firm.
9. Consultation with organisations that support bereaved parents revealed a great deal of support for a statutory entitlement to Parental Bereavement Leave and Pay to provide a standard level of entitlement for employees. Employee representative groups were also keen to support a statutory minimum and emphasised the need for entitlements to be clear and straightforward for employers and employees to follow; in particular in relation to interaction with existing leave and employee support policies (i.e. time off for dependants).
10. Research suggests that if loss and grief is disregarded in the workplace there may be negative impacts for the organisation; failing to support grieving individuals (neglecting their needs when they are vulnerable) can undermine the efficiency and effectiveness (and therefore reputation) of the organisation.<sup>3</sup> Unsupportive work environments can add significantly to the pressures of grieving, especially if colleagues, managers, and the overall workplace culture are not sufficiently

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<sup>2</sup> CRUSE. Bereavement in the Workplace Support.

[https://www.cruse.org.uk/sites/default/files/default\\_images/pdf/Training/web\\_BITW\\_A5\\_Feb15.pdf](https://www.cruse.org.uk/sites/default/files/default_images/pdf/Training/web_BITW_A5_Feb15.pdf)

<sup>3</sup> Loss and grief in the workplace: the challenge of leadership. M.Tehan and N.Thompson. 2012.

<http://web.a.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=13&sid=c0fe35f8-4d9d-4bd7-8d3f-d71f1b6752da%40sessionmgr4006&hid=4112>

sensitive and supportive.<sup>4</sup> Supportive workplaces, on the other hand, are likely to help the process of grieving and make an employee's return to work easier and more sustainable. The provision of a period of leave following the death of a child is therefore likely to improve an employee's experience as they return to work; they are likely to feel more valued, more committed to the organisation, and are likely to be more productive than they would otherwise have been as a result. Consultation with employer representatives revealed business benefits from providing time off to grieve, including better health and wellbeing of their workforce and increased moral and engagement of their employees. A CIPD survey sent out to its members and followers on social media reported that 88% of businesses were in support of a Parental Bereavement Leave policy.

11. Employer representatives were keen to emphasise the benefits to business of this policy, including the impact on better health and wellbeing for their employees and how in turn this can increase morale and engagement. Ensuring employees receive appropriate provision at this difficult time helps them return to their full potential in a supported environment. However, these benefits to the employer may not be widely understood, and are difficult to measure, potentially leading to under-provision of leave. This was a concern of employer representatives, suggesting the economic benefits of supporting an individual to return to work and perform productively and efficiently in the long run is not recognised. An entitlement is necessary to improve productivity, staff morale and retention and attract talent to an organisation, and these benefits are not widely recognised by employers. However, statutory minimum standards would ensure the business benefits are felt and a specific entitlement could help to raise awareness of the impact of bereavement and how support can benefit the individual as well as the employer and the wider economy.
12. Consultation with employer representatives indicates that the majority of employers already have a bereavement leave policy in place. A survey conducted by CIPD<sup>5</sup> found 2/3rds of the businesses sampled provided bereavement leave where 40% of these provided for 5 days to be paid and 25% provided for 3 days to be paid. Businesses are likely to provide more generous leave entitlements that are unpaid, and from consultation evidence the majority of employers (suggested as high as 88% in a CIPD survey) are encouragingly supportive of Parental Bereavement Leave. It thus seems likely that businesses will welcome the statutory provision and go further than this through contractual policy arrangements.
13. During consultation the suggestion of 2 weeks' leave and pay was generally welcomed as a 'good starting point' for the introduction of legislation. Understandably, organisations representing bereaved parents sought a wider, more generous, entitlement, including time off for more than 2 people in respect of one child, and for the pay element to be set at 90% of actual pay to ensure as many people as possible could take the leave. However, they understood the financial constraints that government face and largely welcomed any introduction of an entitlement that would benefit the people they support. Both employer representatives and organisations supporting bereaved parents emphasised the need for guidance to be clear and definitive in definitions and policy scope to avoid the situation of having to go to tribunal to seek clarification on the entitlement.

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<sup>4</sup> Bevan, D, Thompson, N (2015) Death and the workplace, *Illness, Crisis and Loss*, Vol 23, Issue 3, 2015  
<http://journals.sagepub.com/doi/pdf/10.1177/1054137315585445>

<sup>5</sup> The survey attracted 679 responses from CIPD membership of over 145,000 HR and L&D professionals. It was conducted using the SurveyMonkey tool and promoted via CIPD social media channels on Twitter (95.8k followers), LinkedIn communities and Facebook. In addition to this, it was promoted via the weekly CIPD e-update that goes to over 380,000 subscribers (not necessarily members but people who have actively subscribed). Membership base is wide with 60% of our members working in private sector services and manufacturing, 33% working in the public sector and 7% in the not-for-profit sector.

14. Another important rationale for government intervention is the achievement of equity objectives. It is important that Government supports all groups of people in the economy. A statutory entitlement provides a minimum standard of Parental Bereavement Leave for all employees regardless of who they work for.

### 3. Policy objective:

15. The proposed introduction of Parental Bereavement Leave and Pay would aim to:

- Give bereaved employed parents<sup>6</sup> the statutory right to paid leave to provide space for them to grieve following the death of a child.
- Send a signal to employees and employers about the importance and value of recognising bereavement and providing adequate support and space to parents in that situation.

### Proposed policy

#### Legislate to provide a statutory entitlement to 2 weeks' leave paid at the statutory rate of pay

16. The Government believes that it is important that parents are supported during their time of bereavement and have time away from work to come to terms with their grief. This option involves new primary legislation which entitles employed parents who have lost a child to a maximum of 2 weeks' leave, paid (subject to eligibility) at the statutory rate of £140.98 or 90% of average weekly earnings (whichever is lower) per week.

17. Under this option, the statutory leave entitlement would have to be taken before the end of a period of at least 56 days beginning with the date of the child's death, as the intention in this situation is to enable leave to be taken at short notice to deal with the initial shock of the death. This approach mirrors that of existing provision of Statutory Paternity Leave and Pay; thereby helping to limit uncertainty and the business impact in terms of understanding a new Right for employees.

18. As currently conceived, the *statutory entitlement* would be for parents who have lost a child aged 0-17 years old, including those experiencing a stillbirth. This uses the definition of parent which includes those with biological or legal parental responsibility for the child as well as taking in to account a 'less traditional' family set up.<sup>7</sup> This would be a 'day one' entitlement which means that an employee would be eligible for bereavement leave regardless of length of service with their current employer. To qualify for *paid leave* the employee would have to have been working for their current employer for 26 weeks at the date of their child's death in line with other statutory entitlements. This is the legislative proposal as it currently stands, and the costs and benefits presented in this impact assessment are based on these parameters.

19. We recognise that bereavement is an extremely personal issue which people and businesses deal with in different ways. Evidence from the consultation of businesses, charitable organisations representing bereaved parents and public sector organisations has allowed us to refine our policy proposal and the parameters of who should receive an entitlement to Parental Bereavement Leave and Pay; in particular by establishing the needs of bereaved parents and

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<sup>6</sup> Parents in this impact assessment are described as having biological or legal parental responsibility for the child, or where a less traditional family situation exists, those with a responsibility for the child which may not be a legal responsibility [i.e. step parents of the child].

<sup>7</sup> The actual definition of who will be entitled to Parental Bereavement Leave will be defined in regulations. For the purposes of the impact assessment we use this definition to provide the cost estimate of how we anticipate the regulations to define eligible parents.

their employers, the extent to which employers currently provide paid or unpaid compassionate leave in this situation, and the impact this new entitlement might have on both employers and bereaved employee parents. The final policy proposal has been developed to reflect these consultations.

20. The Bill as drafted facilitates the two weeks leave being taken in two week-long blocks within the 56-day timeframe to provide flexibility. This would allow employees greater control over when they take the leave; to suit them in terms of when they feel is most appropriate. Each individual reacts differently to a bereavement and it may be the case that taking one week immediately and one week later would better cater to some people's needs. We do not anticipate this greater flexibility to create additional costs to the Exchequer or businesses in terms of one-off costs though it could conceivably have a positive impact on take-up relative to more restrictive leave. Evidence gathered during the consultation with employer representatives supports the need for flexibility in the system to allow employers to support employees in the best possible way for the individual. Charities supporting bereaved parents also emphasised that flexibility would better support parents' needs. Further consultation and evidence on this point is needed.

#### 4. Rationale and evidence that justify the level of analysis used in the IA (proportionality approach):

21. It would be disproportionate, and not feasible given the legislative timetable and overall expected cost of the policy, to conduct large-scale research to provide evidence to validate our assumptions. However, in order to increase the robustness of the estimates in the consultation stage IA, we consulted with employer representatives and voluntary sector organisations representing the interests of bereaved parents in roundtable events. This evidence has informed the current analysis and was used to refine our original assumptions and cost estimates.
22. At a Great Britain level, the number of childhood deaths including stillbirths each year is around 7600<sup>8</sup>. The resulting costs to the Exchequer and to business of this policy are small; ***our best estimate for the annual cost to business of the policy proposal is approximately £2.56m and our best estimate of the annual cost to the Exchequer is £3.18m.*** This all suggests that in terms of proportionality our approach to analysis in this impact assessment is justified.

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<sup>8</sup> Deaths by single year of age tables – UK.ONS data for 2016 (0-17 years) suggests a figure of 4505 childhood deaths for the UK – <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/datasets/deathregistrationsummarytablesenglandanddwalesdeathsbyingleyearofagetables>; ONS Data for 2016 suggests there were 3112 stillbirths in England and Wales – <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/datasets/deathregistrationsummarytablesenglandanddwalesreferencetables> and NRS Scotland data suggests there were 206 stillbirths in Scotland in 2016 <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/vital-events-reference-tables/2016/section-4-stillbirths-and-infant-deaths>

## 5. Monetised costs and benefits

### *Modelling approach*

23. Acas publishes guidance for employers on managing bereavement in the workplace, but there was consensus among employer representatives that a statutory entitlement would help to ensure a standard level of provision across all employers. In particular, legislation would encourage employers less engaged with their employees' welfare to go further in provision of bereavement leave and pay than they would otherwise.
24. We have estimated the costs and benefits of the introduction of a statutory entitlement to Parental Bereavement Leave to the best of our knowledge with the available information. The costs estimated would only materialise upon implementation of the policy, i.e. when the necessary legislation comes into force. The impact estimates have been refined and adjusted through collection of evidence gathered during consultation with businesses, charitable organisations representing bereaved parents and public sector organisations.
25. The model used to generate the costs in this impact assessment estimates the number of eligible parents each year and multiplies it by an average take-up rate (over the full leave period available). For exchequer costs, we calculate the cost of providing leave paid at the statutory rate of £140.98 and deduct the element of statutory pay that is covered by business (small firms are reimbursed for statutory payments made at a rate of 103% and large firms at 92%). HMRC have also provided estimates of one-off implementation costs and recurring administrative costs they expect to incur from the introduction of the policy. For business costs, we calculate recurring annual costs, which include the cost of absence of the employees taking leave, the wage-like cost (payments by employers that are not covered by the Exchequer), and the recurring administration cost of processing requests for Parental Bereavement Leave. We also calculate the one-off familiarisation costs businesses face in the first year the policy comes in to force.
26. The introduction of this legislation would not constitute an additional cost to those employers already providing bereavement leave and pay. Our consultations provided evidence from employer representatives allowing us to estimate existing provision, and hence the net business impact of the proposals. We take account of this throughout our analysis. Our final summary of the impact on business and the exchequer (page 22, table 5) deducts the costs that employers who already have a bereavement leave and/or pay scheme would have incurred anyway from overall costs to provide a net figure.

### *Eligible parents*

27. The statutory leave entitlement would be for parents who have lost a child aged 0-17 years old including those experiencing a stillbirth. This would be a 'day one' entitlement which means that an employee would be eligible for bereavement leave regardless of length of service with their current employer. To qualify for the statutory pay entitlement the employee would have to have been working for their current employer for 26 weeks at the date of their child's death. This is in line with other statutory entitlements.
28. Estimates of the number of parents who would be eligible to claim Parental Bereavement Leave are based on data for the number of child deaths and stillbirths each year in Great Britain, which stands at approximately 7600 for 2016<sup>9</sup>. In our estimate of the number of parents affected we

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<sup>9</sup> ONS data (Deaths by Single Year of Age tables) suggests there were 4505 deaths of those aged up to 17 in the UK in 2016 – <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/datasets/deathregistrationssummarytablesenglandandwalesdeathsbysingleyearofagetables>. NISRA data suggests there were 176 deaths of those aged up to 17 in NI in 2015 – <https://www.nisra.gov.uk/publications/deaths-by-single-year-age-1955-2015>. ONS Data for 2016 suggests there were 3112 stillbirths in England and Wales – <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/datasets/deathregistrationssummarytablesenglandandwalesreferencetables> and NRS Scotland data suggests there were 206 stillbirths in Scotland in 2016 <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/vital-events-reference-tables/2016/section-4-stillbirths-and-infant-deaths>

account for the less traditional family set up, where biological parents/adoptive parents of the child may have separated and have new partners involved in the child's life. We therefore assume there are two parents/legal guardians for each child who dies (approximately 15300). DWP<sup>10</sup> research on the number of children living in separated families provides an estimate for the proportion of these parents that may have separated. In 2012, 1/3<sup>rd</sup> of children lived in a separated family. We therefore assume that approximately 1/3rd of the 15,300 parents (around 5100 people) experiencing a child bereavement might have separated. As a maximum estimate, it is possible that all of these parents have a new partner. Thus the total number of people with a relationship to the child is estimated at a maximum of 20,300 people. As we expect all of these people to have a parental relationship with the child, throughout this impact assessment we will refer to this whole group as 'parents'.

29. We expect this estimate of parents to be an upper limit as we use the cautiously high assumption that 100% of those parents that have separated will have a new partner. This may be a high estimate as we know the majority (67%) of child deaths occur in the first year (with 71% of deaths in the first year occurring in the first 28 days) and we consider the likelihood of separation to be cumulative through time; hence separation seems less likely for new parents. It also seems less likely that separated families with young babies will have a new partner. However, in the absence of more specific evidence, we maintain this is the best way to estimate the potential number of people with a relationship with the child.
30. To estimate the number of people potentially eligible for Parental Bereavement Leave and Pay we apply the estimate that 81.6%<sup>11</sup> of parents are employed. As self-employed parents would not be eligible we apply a self-employment rate of 15%<sup>12</sup> and deduct this group from our estimates. From these calculations, we find that 14,000 parents are eligible for Parental Bereavement Leave. To be eligible for the pay element employees need 26 weeks continuous employment with their employer. Analysis of the Labour Force Survey<sup>13</sup> suggests the proportion of employees with sufficient tenure will be 91.1%. When applied to our calculations we find that 12,900 parents are eligible for the pay entitlement.
31. Table 1, below, presents the resulting numbers eligible for Parental Bereavement Leave.

No. of childhood deaths per year in UK, including stillbirths	7600
Max no. of people that could be eligible	20300
Proportion of parents that are employed	81.6%
Proportion of employees working continually for 6 months or more with their current employer	91.1%
Proportion of parents who are self-employed	15%
Number of parents eligible for <i>leave</i> excl. self-employed	14000
Number of parents eligible for <i>leave and pay</i> excl. self-employed	12900

<sup>10</sup> <https://www.gov.uk/government/news/help-for-separating-parents-at-their-fingertips-as-new-web-app-launches-a-third-of-children-now-live-in-separated-families>

<sup>11</sup> 81.6% represents the employment rate of all people with dependent children, irrespective of their household/family status. ONS. Table P. <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/workingandworklesshouseholdsalltables>

<sup>12</sup> ONS Labour Market Statistics.

<sup>13</sup> Labour Force Survey. ONS.

<https://www.ons.gov.uk/surveys/informationforhouseholdsandindividuals/householdandindividualsurveys/labourforcesurvey/lfs>

## Take-up

32. Estimates of the proportion of eligible parents who would take up Parental Bereavement Leave are subject to a large degree of uncertainty as take-up decisions will depend crucially on family circumstances, household income, workplace culture and how each individual parent reacts to the loss of their child, with decisions varying greatly depending on the individual. There is no direct, immediately applicable, evidence on likely take-up rates so we provide a range, based loosely on take-up of existing leave.
33. Our current best estimate assumes that 100% of eligible parents will take the first week of leave and pay available and 75% of parents will also take the second week available (resulting in 87.5% take-up of the policy). Our high estimate is that 100% of eligible parents take both weeks of the leave and pay available to them (100% take-up rate for the policy and therefore a maximum estimate). The low estimate is that 75% of parents' eligible take 1 week of the leave available and 50% will also take the second week of leave available (overall 62.5% take-up of the policy).<sup>14</sup>
34. Although taken under very different circumstances, these assumptions are consistent with data on take-up for Statutory Paternity Leave and Pay, an entitlement of similar duration and level of pay. During consultations, bereavement charities agreed it was sensible to take this approach, due to the similarities in the entitlement in terms both of the duration of leave and the level of pay.
35. Table 2 sets out the number of parents taking only leave for the proposal (those with fewer than 6 months tenure) and the number of eligible parents taking leave and pay, in each of our take-up scenarios.

<b>Table 2 – Number of parents taking 'leave' or 'leave and pay' per week</b>				
	Parents taking leave in week 1		Parents <i>continuing</i> to take leave in week 2	
	% of parents take up <sup>15</sup>	Number of parents	% of parents take up	Number of parents
High	100%	14000	100%	14000
Best	100%	14000	75%	10600
Low	75%	10600	50%	7000
	Parents taking leave AND pay in week 1		Parents <i>continuing</i> to take leave AND pay in week 2	
	% of parents take up	Number of parents	% of parents take up	Number of parents
High	100%	12900	100%	12900
Best	100%	12900	75%	9600
Low	75%	9600	50%	6400

<sup>14</sup> High take up = 100% = (100%\*100%)/2

Mid take up = 87.5% = (100%\*75%)/2

Low take up = 62.5% = (75%\*50%)/2

<sup>15</sup> This refers to the percentage of all parents, rather than the percentage of parents taking leave in week 1.

*Costs and benefits*

36. Costs and benefits in this impact assessment are presented for the legislative proposal as outlined above. The classification of cost estimates are as follows:

<b>Table 3 – costs and benefits definitions</b>	
<b>Type of cost/benefit</b>	<b>Explanation and components</b>
Familiarisation costs	Employers must familiarise themselves with the details of this new leave entitlement and update any policy documents.  HMRC must update their IT systems on introduction of the policy.
Administrative costs	<u>Business recurring administration costs:</u> Employers incur administrative costs as they administer requests for Parental Bereavement Leave.  <u>Exchequer recurring administration costs:</u> HMRC will incur a recurring admin cost from processing claims for pay.
Absence cost	<u>Wage-like costs:</u> Larger employers can reclaim 92% of statutory payments. Smaller employers can reclaim 103%. There is a resulting net cost to larger businesses associated with the statutory payments.  <u>Re-organisation costs:</u> Employers have to re-organise work among current staff, provide temporary cover or accept a small fall in output in response to employees going on leave.
Exchequer costs	<u>Statutory payment cost:</u> The Exchequer is responsible for the cost of up to 2 weeks of statutory pay for each employee who takes leave. Total cost to the Exchequer will be less than the total value of these payments because of the business contribution (outlined above).
Employee benefit	Employees will have a direct benefit from the statutory payment they receive for the proportion of leave they take-up.
Employer benefit	Employers who already have a paid bereavement leave policy in place will now receive a reimbursement from the Exchequer equal to the value of the statutory payment less the employer contribution. This constitutes a benefit for these businesses, who would otherwise incur the full cost of the payments made to employees during bereavement leave.

## 5.1 Costs to Business

### *One-off Familiarisation Costs*

37. A significant proportion of costs identified in this impact assessment are one-off familiarisation costs incurred by businesses in the first year. Due to the low numbers of child deaths each year it is likely that many businesses (especially small businesses) will not experience any employees seeking to use their entitlement to Parental Bereavement Leave. From consulting with employer representatives, it seems likely that small- and medium-size businesses (fewer than 50 employees) will only familiarise themselves fully with the legislation as and when they really need to: when an employee suffers child bereavement and seeks statutory leave. At the point the legislation is introduced, businesses with fewer than 50 employees may spend a very short amount of time understanding the basics, but little more. On the other hand, it is likely that larger businesses will invest more time in familiarisation at the point the legislation is introduced as they will have dedicated HR departments responsible for understanding and articulating changes to employment law routinely, as and when they occur. These businesses will also have a higher probability of experiencing an employee claiming Parental Bereavement Leave due to the larger number of people they employ. As some employers already have a bereavement leave policy in place, familiarisation will also include understanding how this interacts with the statutory provision.
38. As this legislation mirrors existing statutory provision of other types of leave (e.g. Statutory Paternity Leave) in terms of the length of leave being paid at the statutory rate and some of the eligibility criteria, we would expect the process to be fairly straightforward in terms of familiarisation. Familiarisation for businesses may then be as much about understanding how their own schemes interact with the statutory provision, as it is about updating internal guidance and systems and disseminating this to staff. Also many larger businesses with dedicated HR teams are already well equipped to make changes following legislative introduction at the October and April government implementation dates. The extent to which larger employers go beyond the basic expectation of familiarisation (understanding the statutory requirement and updating necessary systems) and disseminate and promote Parental Bereavement Leave and Pay legislation within their business is at their own discretion. As a result, our estimates of the time taken do not account for any 'gold plating' of familiarisation employers may do.
39. We have accounted for the differentiation between smaller and larger employers by a) assuming businesses with fewer than 50 employees will not spend any time familiarising themselves on point of introduction of the legislation; and b) incorporating some additional time in the recurring admin (request processing) cost for these businesses to account for the lack of familiarity.
40. For employers with 50+ employees we assume an average of 3 hours of time is needed for familiarisation, with an HR Manager/Director responsible for this. This time will include: building understanding of the legislation and, if the employer has a bereavement policy in place currently, how this fits with their current policy; updating HR systems in order to process claims; and updating internal guidance for employees and managers. We expect the business processes required for reclaiming Parental Bereavement Leave and Pay to mirror those of other statutory leave provisions (i.e. Statutory Maternity Pay, Statutory Paternity Pay, Statutory Shared Parental Pay and Statutory Adoption Pay) so we assume that changes to payroll systems could be incorporated in routine updates.
41. For all firms, time has been valued using data from the Annual Survey of Hours and Earnings (ASHE) 2016<sup>16</sup>, which suggests the average wage rate of an HR Manager/Director will be

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<sup>16</sup> Annual Survey of Hours and Earnings 2016. Provisional Results.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2016provisionalresults>

£27.20 per hour. We have updated this by 19.76% to £32.57 per hour to include non-wage labour costs.<sup>17</sup>

42. Applying these hourly costs to our assumed familiarisation times and using 2016 BIS Business Population Estimates for the whole economy, **we estimate total familiarisation costs to be £4.8m.**

### Administrative costs

#### Recurring administration costs

43. Recurring administrative costs are assumed to be the cost of administering requests for Parental Bereavement Leave and/or Pay. We estimate the number of requests based on the level of take-up outlined above for the high, mid and low outcomes.
44. As discussed above, we assume businesses with fewer than 50 employees will not conduct any familiarisation of the policy until they need to process a request. We therefore assume that businesses with fewer than 50 employees will take longer to process an application than larger businesses. Our estimates allow for half an hour of processing time for larger businesses and an additional 60 minutes for businesses with fewer than 50 employees to account for time spent calling helplines for specialised advice (e.g. consulting a lawyer) or looking up Acas guidance (i.e. the equivalent of familiarisation). As with the familiarisation costs, we assume that in businesses with 50+ employees an HR Manager/Director will process any claims. For businesses with fewer than 50 employees we assume a Manager/Director/Senior Official will process requests as they are unlikely to have a dedicated HR team.
45. On the basis of ASHE data, as above for familiarisation costs, we use the updated (for non-wage labour costs) average wage for an HR Manager/Director of £32.57 per hour. For a Manager/Director/Senior Official (for firms with fewer than 50 employees) we assume the updated wage rate of £29.96 per hour<sup>18</sup>. Applying these wage rates to our estimates of the time taken to process requests leads to a **best estimate for recurring administration cost to employers of £0.34m per year, a high estimate of £0.34m and a low estimate of £0.26m.** The high and best estimates are the same as the numbers requesting leave are the same (i.e. 100% request leave in the first week under both scenarios; it's only in the second week that take-up drops off but at that point the admin cost has already been incurred).
46. Consultations with employer representatives suggested that the majority of businesses could already have a bereavement leave policy in place, so we do not anticipate that these proposals will create considerable additional administration costs to business as a whole. We account for existing provision below (from para 54).

### Absence costs

47. Absence costs are those incurred by businesses due to their employee taking Parental Bereavement Leave. They consist of two components:
- Wage costs. If the employee is paid by the employer despite being absent. While smaller employers will not incur such costs, larger employers will incur wage-like costs, because they cannot recover the full amount of statutory pay during the paid leave period.
  - Reorganisation costs
    - Employing temporary cover which is likely to be more expensive than the absent employee and may also be less productive.

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<sup>17</sup> Eurostat, Labour costs per hour in euro, whole economy (excluding agriculture and public administration): [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Labour\\_costs\\_per\\_hour\\_in\\_euro,\\_whole\\_economy\\_\(excluding\\_agriculture\\_and\\_public\\_administration\)\\_T1.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Labour_costs_per_hour_in_euro,_whole_economy_(excluding_agriculture_and_public_administration)_T1.png)

<sup>18</sup> ASHE wage rate for Manager/Director/Senior Official = £25.02. 25.02\*1.1976 = £29.96.

- Re-allocating work among existing staff, which is costly because either additional overtime is paid so that output remains constant, or because in re-allocating work, some other work is dropped, resulting in a loss of output.
- Not covering the absent employee's work and accepting a loss of output.

#### *Wage-like costs*

48. Under the proposals, employees taking Parental Bereavement Leave will be entitled to Statutory Pay for each week of leave: 90% of their average weekly earnings or £140.98 (whichever is the lower) per week. Employers administer statutory pay on behalf of Government and small employers can recover 103% of statutory payments that they make to their employees from HMRC. Larger employers (defined as those with a National Insurance contributions bill of £45,000 or more) can recover 92% of Parental Bereavement Leave payments made to their employees and so will incur wage-like costs equivalent to 8% of the statutory payments they make. On average, the contribution to statutory payments made by employers is approximately 5.8%. Annex A explains the derivations underlying the overall estimates for wage-like costs in more detail.
49. For our best estimate we find around 12,900 employees take up paid bereavement leave in week 1 and 9600 employees take up paid bereavement leave in week 2. 80.1% of employees work for businesses with 50+ employees and 19.9% of employees work for businesses with fewer than 50 employees. Applying these proportions and the relevant reimbursement rates small (103% reimbursement) and large (92% reimbursement) employers can receive from the Exchequer we calculate **a best estimate of overall wage-like costs to employers of £0.18m per year with a range between £0.21m and £0.13m.**
50. Consultations with employer representative suggested that some of the businesses who already have a bereavement leave policy in place provide this on a paid basis. These businesses are thus incurring wage-like costs already. We account for this below (from para 54).

#### *Re-organisation costs*

51. Re-organisation costs are incurred by employers whether leave taken is paid or not.
52. We use 2012 CBI survey data on reported cost of absence and ASHE estimates for the same year to calculate the value of absence costs as a proportion of the median weekly wage. Absence costs are found to be equivalent to 20.74% of the median wage (see Annex A for a more detailed explanation). Using the estimates for the number of weeks taken in our high, mid and low scenarios and the median wage rate reported by ASHE 2016 we estimate the **annual re-organisation costs to employers of £3.2m, with a high estimate of £3.6m and a low estimate of £2.3m.**
53. As mentioned, evidence suggests the majority of businesses already have some procedure in place to provide leave and in some instances pay when an employee suffers a bereavement. This reduces the overall impact of the legislation in terms of additional reorganisation costs to businesses as this group are incurring these costs anyway, regardless of a statutory entitlement being introduced. We account for this below (from para 54).

#### Non-additional cost

54. 'Non-additional' refers to outcomes that would have occurred without Government intervention. In this case non-additional costs arise because:
1. Some employers already provide 'compassionate leave' to employees at times of bereavement of a child.
  2. Some employers already provide paid leave to employees facing the bereavement of a child at or above the statutory rate (e.g. at the employee's salary level).

55. Consultations with employer representatives suggested that the majority of businesses could already provide a form of bereavement leave. A recent CIPD survey<sup>19</sup> found that 70% of businesses provided bereavement leave in some form. Forty percent of these provided 5 days' paid leave and a further 6.5% provide 10 days' paid leave. For businesses that provide unpaid bereavement leave 16% provide 5 days and further 7% provide 10 days. Although the CIPD survey is likely to over represent medium- and larger-sized businesses, representatives of small business suggested that small firms are likely to use discretion when there is a bereavement affecting an employee and would be likely to provide time off and support in such circumstances.
56. Consultations with employer representatives also suggested that those businesses that already provide more generous compassionate leave entitlements than the current proposal would not reduce their level of provision if a statutory entitlement was introduced, although the CIPD survey suggests only a small minority already provide more generous allowances.
57. Using the survey findings above, we assume 49%<sup>20</sup> of all employers offer either paid or unpaid leave for at least one week, and 9.5%<sup>21</sup> of employers offer either paid or unpaid leave for two weeks, so 49% of employers offer leave to some extent. We use these figures to calculate existing re-organisation costs and recurring administration costs associated with the bereavement leave already provided by businesses.
58. Similarly, we assume that 33%<sup>22</sup> of all employers provide paid leave for at least one week and 4.6% provide paid leave for two weeks<sup>23</sup>. We use these figures to estimate the wage-like costs already incurred by business and therefore the benefit these businesses will obtain through being able to claim back the statutory portion from the Exchequer.
59. Although leave may be offered by employers it may be that some employees choose not to take this up due to the considerations mentioned in our take-up discussion above. To account for this, we follow the same approach to estimating take-up applied in our calculations above (see para 33); we do not expect the take-up behaviour of those already benefiting from an entitlement to change significantly following the introduction of the policy. This is particularly the case for those with a *paid* leave entitlement, which is likely to be at or above the statutory rate proposed here. There may be some cases where employers offer only unpaid leave currently and therefore the introduction of the minimum statutory rate may encourage some parents to take leave where they would not currently. However, ultimately, in this situation we believe the overriding consideration of whether to take leave will be the need for time off work, rather than the financial consideration. Since we have limited evidence on likely take-up of leave as a whole, and no evidence on how those who already have an occupational entitlement might respond, we believe this is the right approach.

*Current cost of:*

*Recurring admin*

60. Employers who already have an existing provision are likely to incur an administrative cost to process and arrange these claims. Therefore, the introduction of the proposed legislation, although it may change the process of recording the bereavement leave slightly (i.e. registering it with HMRC to receive the reimbursement of the statutory rate) is not expected to generate additional recurring administration costs for this group.
61. We estimate the current business cost of administration using the assumption outlined above that 49% of employers already provide a leave entitlement for employees in circumstances of bereavement. Using the take-up rates outlined earlier (at para 33), we further assume that at the best estimate, all eligible employees take up leave of some duration. We reduce the recurring administration cost to employers only by the portion of recurring administration time assumed for processing a request (half an hour for all businesses). This is because, although included in recurring admin costs for small and microbusinesses, the familiarisation that small and micro businesses incur at point of receiving a request is directly attributable to the introduction of the

<sup>19</sup> An online survey attracting 679 responses from CIPD membership and other subscribers, using SurveyMonkey.

<sup>20</sup>  $49\% = (40\% + 16\% + 6.5\% + 7\%) * 70\%$

<sup>21</sup>  $9.5\% = (6.5\% + 7\%) * 70\%$

<sup>22</sup>  $33\% = (40\% + 6.5\%) * 70\%$

<sup>23</sup>  $4.6\% = (6.5\%) * 70\%$

policy and would not be a cost already incurred by the small and micro businesses. Therefore, we estimate that **the total cost to business of their existing recurring administration is approximately £0.11m**. For the high estimate, we again assume 100% of employees will take up some leave, with a resulting cost of £0.11m, and for the low estimate we assume 75% of employees take up some leave, resulting in a cost of £0.08m.

#### Absence

62. Employers who currently provide bereavement leave for their employees will already incur a cost of absence for those who take up the entitlement. We assume the introduction of statutory Parental Bereavement Leave will thus have no absence cost impact on these employers.
63. Using our assumptions for take-up and existing provision outlined above, and applying the methodology for absence costs also outlined above, we calculate that at the best estimate, **employers already incur £0.98m in absence costs**. For our high estimate we find they currently incur £1.1m and at our low estimate we find they incur £0.54m.

#### Wage-like

64. Introducing the proposed statutory entitlement would mean that all employers can claim back a reimbursement from the government for a portion of the statutory rate they pay. This is 92% for large employers and 103% for smaller employers as outlined above (page 14, para 48), which on average means that businesses incur 5.8% of the cost of total statutory payments (see annex A for a fuller explanation of the wage-like cost calculation). The total value of this wage-like cost has been calculated above. However, we know that 33% of businesses already provide a paid entitlement. From consultation evidence we assume that the majority of these paid entitlements are at full (or close to full) salary. There are thus no wage-like costs resulting from the legislation for this group of employers as they already pay for leave; the cost is already incurred.
65. Using the same methodology for calculating wage-like costs described above, **we estimate that portion of wage-like costs that were being incurred already, at £0.06m. The high estimate for this figure is £0.07m and the low estimate £0.04m.**
66. Table 4 shows the reduction in the total costs figure that should be applied in order to estimate the *additional* costs of the legislation.

<sup>24</sup>	<b>Lower estimate (62.5% overall take-up)</b>	<b>Best estimate (87.5% overall take up)</b>	<b>Upper estimate (100% take-up)</b>
<b>Reduction in total costs to be applied</b>	<b>£0.67m</b>	<b>£1.2m</b>	<b>£1.2m</b>
Annual cost of absence	£0.54m	£0.98m	£1.1m
Wage-like costs	£0.04m	£0.06m	£0.07m
Recurring admin costs	£0.08m	£0.11m	£0.11m

<sup>24</sup> In tables, due to rounding, sub figures of total costs may not add to the total cost presented. However, the total cost should be interpreted as the correct rounding. The total costs presented in bold and dark grey are the sum of the costs of each element shaded in light grey.

## 5.2 Costs to the Exchequer

### *One-off admin cost*

67. An estimate provided by HMRC of the one-off cost that would be incurred to set up the necessary IT solution, including resource costs and telephony costs, **suggests costs will be around £2.1m.**

### *Recurring admin costs*

68. HMRC estimate the **ongoing maintenance and running cost of processing payments will be around £0.19m per year.**

### *Statutory payments*

69. Introducing Parental Bereavement Leave means the Exchequer incurs the cost of payments at the statutory rate (currently £140.98). Employers can reclaim at least 92% of the statutory payments that they pay to their employees from HMRC. Smaller employers (those with a National Insurance contributions bill of less than £45,000) can reclaim 103% of the statutory payment.

70. This means that the cost to the Exchequer of each week of Parental Bereavement Leave in terms of the statutory payment to each individual is

$$0.92 * £140.98 = £129.70$$

if the claim is made by a large employer and

$$1.03 * £140.98 = £145.21$$

if made by a small employer.

71. It has been argued that, for a variety of reasons, some businesses may not seek reimbursement of their statutory payments from HMRC, especially where these payments are for a short duration of leave. There is a suggestion that some businesses (especially large ones) may not recover payments as they provide paid leave at a level higher than the statutory rate anyway; it may be that payroll are not aware that an individual has taken leave or it the reimbursement is relatively insignificant. However, it could conversely be argued that large businesses have well-developed HR processes that register employee leave automatically triggering automatic recovery of any statutory element. Our consultations did not provide evidence to suggest or confirm either view. Considering the conflicting arguments and lack of supporting evidence, we cautiously assume that all businesses recover the full amount of statutory payments they are entitled to.

72. Accounting for the proportion of the payment that is covered by large businesses and the larger proportion that can be recovered by small businesses; we estimate **annual Exchequer costs for statutory payments of between £2.1m and £3.4m, with a best estimate of £3m.**<sup>25</sup>

## 5.3 Benefits

### *Statutory payment to employees*

73. It is difficult to monetise the societal benefits that make up the majority of benefits associated with the introduction of Parental Bereavement Leave. Statutory payments can be monetised, however, and are included as a benefit in this impact assessment. Overall, *we estimate that*

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<sup>25</sup> Exchequer contribution is less than total statutory payments because on average, across large and small firms, there is a positive contribution from business.

*individuals claiming Parental Bereavement Leave will receive payments of between £2.3m and £3.6m with the best estimate of £3.2m.*<sup>26</sup>

74. This benefit is equivalent to the recurring Exchequer costs due to additional statutory payments plus the wage-like costs incurred by businesses and will be additional in cases where no paid policy already exists for employees at the point of introduction of the legislation. Statutory payments to those working for employers who already have a paid bereavement leave provision, will not be additional, however. In these instances, the value of the statutory payment accrues to the employer.
75. From consultation evidence, we find that 33% of businesses could have a paid bereavement leave policy in place. This would suggest that 33% of the value of statutory payments is not an *additional* benefit to individuals. Using the 33% means we are conservative in our estimate of the benefit to employees, as it may be the case that 33% of businesses are not providing the full 2 weeks paid leave. However, due to the robustness of the CIPD survey we think breaking down the model further may lead to more spurious accuracy and therefore this estimate errs on the side of caution as it may underestimate the benefit to employees. We deduct the amount from the overall estimate of statutory payments to find that **at our best estimate, employees benefit by approximately £2.1m per year, between a low and high estimate range of £1.5m to £2.4m.**

#### *Businesses receiving reimbursement*

76. As outlined above, there is a benefit to those businesses that already provide a paid bereavement leave entitlement; 33% of all businesses according to a CIPD survey<sup>27</sup>. Consultations with employer representative groups suggested that the majority of existing paid entitlements are paid at full (or close to full) salary. Introducing the proposal would mean that all employers can claim back a reimbursement from the government equivalent to a portion of the statutory rate (92% of the statutory rate for large employers and 103% for small employers as outlined in Annex A). For those employers who already pay for leave, the reimbursement would reduce their leave costs, and would hence be a benefit.
77. For example, Employer A (a large employer) provides bereavement leave for 2 weeks paid at 100% of salary. The introduction of Parental Bereavement Leave means Employer A continues to pay bereavement leave for 2 weeks at 100% of salary, but now can reclaim 92% of the statutory rate (currently £140.98) back from the government. Therefore, the cost to Employer A reduces by (£140.98\*0.92) per week of leave taken. For Employer B (a small employer) the reimbursement is equivalent to (£140.98\*1.03) per week of leave taken.
78. To calculate the best estimate for this business benefit we assume: in week 1, 33% of employers provide a paid entitlement and 100% of employees take up this entitlement and in week 2, 4.6% of employers provide a paid entitlement and 75% of employees take this up. These are the same rates for existing bereavement leave provision and take-up used throughout this impact assessment and outlined above (page 10). Overall, for large businesses (accounting for 80.1% of the employee population), the benefit received from government will be £0.76m and for small businesses (accounting for 19.9% of the employee population), the benefit is £0.2m. **The total best estimate of benefit to business is £0.98m, with a low estimate of £0.7m and a high estimate of £1.1m.**

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<sup>26</sup> Totals based on estimates of a high take-up of 100% of parents taking the full 2 weeks leave, a best-estimate take-up of 100% taking 1 week leave and 75% taking 2 weeks leave and a low take-up estimate of 75% of parents taking 1 week leave and 50% of parents taking 2 weeks leave.

<sup>27</sup> Unpublished CIPD Survey, 2017.

## 5.4 Summary

79. Table 5 summarises all monetised costs and benefits estimated in this impact assessment.

80. The costs and benefits of this policy will be realised when the legislation (the Regulations) come into force. We would expect to bring the Regulations into force in 2020 or at the earliest opportunity thereafter.

81. The **Total Net Present Value figure is -£29.34m**, the **Business Net Present Value figure is -£12.85m**, and the **EANDCB £1.2m**.

<b>Table 5 – Monetised effects of introducing Parental Bereavement Leave</b>			
	<b>High</b> (100% take-up of 2 weeks)	<b>Best</b> (100% take-up of week 1, 75% take-up of week 2)	<b>Low</b> (75% take-up of week 1, 50% take-up of week 2)
<b>COSTS</b>			
<b>BUSINESS COST</b>			
<b>One-off (familiarisation costs)</b>	<b>£4.8m</b>	<b>£4.8m</b>	<b>£4.8m</b>
<b>Recurring (annual) costs</b>	<b>£3.0m</b>	<b>£2.6m</b>	<b>£2.0m</b>
<i>Of which reorganisation costs</i>	£2.6m	£2.2m	£1.7m
<i>Of which wage-like costs</i>	£0.14m	£0.12m	£0.09m
<i>Of which recurring admin costs</i>	£0.23m	£0.23m	£0.18m
<b>EXCHEQUER COST</b>			
<b>One-off (admin costs)</b>	<b>£2.1m</b>	<b>£2.1m</b>	<b>£2.1m</b>
<b>Recurring (annual) costs</b>	<b>£3.6m</b>	<b>£3.2m</b>	<b>£2.3m</b>
<i>Of which on-going statutory payment cost (discounted by amount covered by business)</i>	£3.4m	£3.0m	£2.1m
<i>Of which recurring administrative costs</i>	£0.19m	£0.19m	£0.19m
<b>BENEFITS</b>			
<b>Employee Benefits</b>			
Additional statutory leave payments	<b>£2.4m</b>	<b>£2.1m</b>	<b>£1.5m</b>
<b>Business Benefits</b>			
Reimbursement benefit to businesses that currently have paid bereavement leave policy	<b>£1.1m</b>	<b>£0.98m</b>	<b>£0.7m</b>

Note: Due to rounding, some of the costs presented in this table may not add exactly to the total figure. Business costs presented above

## 6. Non-monetised costs and benefits

82. The introduction of the proposed policy is expected to have economic and non-economic impacts beyond those monetised in this impact assessment. These impacts are likely to be small, from a macroeconomic perspective, due to the relatively low number of employed parents who experience the loss of a child. However, for those who take bereavement leave, the beneficial impact will be significant and important, as outlined below.

### *Benefits to parents*

83. In the short run, employed parents will have an entitlement to leave that is paid at a statutory rate. This provides them with the space, should they want it, to grieve away from work in the immediate aftermath of the loss of their child or if they wish to use this leave at a later date within the 56-day timeframe. As leave is paid at the statutory rate, they have some financial support during the period they are not working. A statutory entitlement specifically for this situation means they are not forced to use other types of leave (i.e. annual leave) for this purpose.

84. Enabling bereaved parents in employment to take up to 2 weeks off work to grieve for the loss of a child is likely to have a positive impact on the rest of the family. For example, parent(s) will be better able to support other children or family members also affected by the death. As well as this, time off in the early stages may benefit the family in the long term if it means the parent(s) is more likely to return to work and remain employed than if they were not offered a period of leave.

85. Organisations representing bereaved parents emphasised the importance of acknowledging bereavement as a specific situation, and that employees need time in order to cope with it. Currently, it can be the case that bereaved parents are signed off as sick in order to take time away from the workplace. A specific entitlement for bereavement helps employers and employees to recognise the situation and that it should be dealt with differently to that of a sick employee.

### *Employer benefits*

86. Providing support at this difficult time will facilitate grieving and is likely to help employees return to work at a point when they are ready and able to do so. It is reasonable to suppose that employees are less likely to quit their job and more likely to be able to carry out their work when they do return. Employers providing support to bereaved parents helps to ensure staff retention, particularly if employers go beyond the statutory minimum.

87. Employer representatives were keen to emphasise the benefits to business of this policy, including the impact on better health and wellbeing for their employees and how in turn this can increase morale as well as engagement and retention. Ensuring employees receive appropriate provision at this difficult time helps them return to their full potential in a supportive environment.

88. Bereavement is a difficult situation with no textbook handling strategy and some employers might find it difficult to know the right way to approach it, particularly as each individual reacts differently. Having legislation which highlights the importance of supporting bereaved parents provides employers with a baseline level of provision; a starting point for them to build on. It will be particularly helpful to line managers helping them to be consistent in their approach.

## *Benefits to the economy and the Exchequer*

89. Supporting bereaved parents in the manner proposed will help to maintain their attachment to the labour market with both short-term and long-term benefits to the economy, society and the Exchequer.
90. Bereavement charities were keen to point out that this is a step in the right direction to increase awareness of the situation and helps send a signal that Government are keen to start a wider conversation on how to talk more openly about bereavement.
91. We expect employers who already provide greater provision than that currently proposed to continue to do so following the introduction of the entitlement; stakeholder consultations confirmed that firms would be highly unlikely to reduce their provision to the statutory minimum. In fact, we anticipate that this new entitlement may serve to highlight the issue to employers and encourage them to improve their support in such circumstances, going beyond the statutory minimum in some cases.

## **7. Description of other options considered (including status-quo):**

92. Several options were considered during the development of these proposals, as outlined below.

### **Do nothing**

93. This option would not bring about any changes to current levels of provision of bereavement leave, meaning it would remain at the discretion of employers and vary considerably from one firm to another. Maintaining the status quo would mean that parents who suffer a bereavement of a child would not have any statutory entitlement to leave and rely on the compassion of their employer to provide unpaid or paid leave or to allow them to take annual leave at short notice. Employers would still be able to access the Acas good practice guide to managing bereavement in the workplace<sup>28</sup>, but for those unaware of its existence, there would be no campaign or other activity to raise awareness.

### **Flexibility: two weeks to be taken consecutively or in two week-long blocks**

94. The bill as drafted facilitates the two weeks leave being taken in two week-long blocks within the 56-day timeframe to provide flexibility. This would allow employees greater control over when they take the leave; to suit them in terms of when they feel is most appropriate. The alternative would require the two weeks to be taken consecutively, which mirrors statutory paternity leave. For paternity leave, if an individual is only able only to take 1 week at a time, they lose their entitlement to the second week. This approach would restrict the manner in which employees could take their leave and could possibly result in lower take-up than the more flexible approach. Further consultation and evidence on this point is required.

### **Promote the Acas guidance through a promotional campaign**

95. There is existing Acas guidance for employers on managing bereavement in the workplace which includes specific and practical advice in relation to a parent losing a child. The guidance

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<sup>28</sup> Managing bereavement in the workplace – a good practice guide. Acas. Pp.3 Available at: <http://www.acas.org.uk/media/pdf/0/m/Managing-bereavement-in-the-workplace-a-good-practice-guide.pdf>

recognises the important role that employers play in the duty of care to their employees and the effect bereavement might have on an employee in undertaking their duties.

96. A promotional campaign is likely to be effective at raising awareness of the Acas guidance and promote best practice, but may not be enough to encourage all employers to offer special or compassionate paid leave to a bereaved parent.

### **Unpaid Parental Bereavement Leave**

97. This option reflects the current proposals, but without the statutory entitlement to pay at the statutory rate. It is likely that the provision of pay at a statutory rate will not only help with financial considerations when taking leave, but may also encourage firms to add an occupational element to pay. If leave is unpaid, however, parents will be more likely to use other forms of leave (i.e. annual leave) rather than taking up statutory bereavement leave. This option would therefore have lower take-up rates and be less likely to achieve the objectives of this policy in providing employees with support to take time off to grieve following the death of a child.

## **8. Enforcement of the policy/implementation plan**

98. Consultation evidence suggested that it is most important to make the legislation clear and concise in order to make it as easy to understand as possible for employers and employees. This is particularly important given the circumstances in which the employee will be requesting statutory leave and pay; the process needs to be as smooth as possible, which requires the legislation to be unambiguous, for example in terms of who is eligible and what the entitlement is.
99. The need for clarity will be reflected in the legislation and accompanying guidance, which can help employers understand how they can support bereaved employees and explain the legislative entitlements.

## **9. Small and Micro-Business Assessment (SaMBA)**

100. We have outlined earlier the importance to our objectives of having a minimum statutory provision in this area. To secure this requires the introduction of an entitlement for everyone, regardless of the size of their employer. The analysis below demonstrates that small businesses will not be disproportionately affected by the proposals.
101. Based on 2016 Business Population Estimates for the whole economy and ASHE 2016 we estimate that about 97% of businesses affected are small and micro businesses (between 1 and 49 employees), and that these businesses account for 28% of employees and for 27% of total turnover of all affected businesses. We therefore assume that around 28% of parents eligible for Parental Bereavement Leave are likely to work for small and micro-businesses.
102. As explained above (at page 13), upfront familiarisation costs, incurred when the policy is introduced, are faced only by large businesses with 50+ employees and are estimated to be £4.8m.
103. Small- and micro-businesses incur familiarisation costs only at the point they process a request. As a result, these are calculated (above at page 13 and 15) as part of recurring administration costs and contribute £118,000 to this. Small and micro-businesses thus cover around 2% of total familiarisation costs.

104. Recurring administrative costs for small- and micro-employers associated purely with the processing of a claim (rather than becoming familiar with the legislation) are estimated at £30,000 per year. For large employers, this figure is £85,000. In total, small and micro businesses thus incur 26% of the recurring administrative cost. Considering they account for 28% of employees, this does not seem to be a disproportionate burden on small and micro businesses.
105. In addition, any impact on small business is mitigated, to some extent, because smaller employers can recover all of their statutory payments plus an additional 3% (103% in total), while larger employers can on average recover 92%.

## 10. Equality Assessment

### *Age*

106. This policy is targeted at parents who have children less than 18 years old so benefits only those employees who fit this category, who are more likely to be within certain age categories. But realising this benefit for the targeted group will not impose a negative impact on those that do not have children or do not have children under 18. We therefore do not anticipate any age group being disproportionately negatively affected by the proposal.

### *Mothers on maternity leave*

107. It may be the case that a mother suffers the loss of their child whilst on maternity leave. As Parental Bereavement Leave will be provided additionally to existing leave, there will be no negative impact on her entitlement to leave. This applies to mothers and fathers on Shared Parental Leave as well.

### *Remaining Characteristics*

108. The proposal is designed to have a positive impact on families of employee parents if they suffer the loss of a child. There is no evidence to suggest a greater or lesser prevalence of childhood deaths among people with any of the remaining protected characteristics. The proposed changes are unlikely to create any barriers to equality as a result, nor will they disproportionately negatively affect any group of people because of their race, gender, disability, sexual orientation, religion and belief, gender reassignment or if they are pregnant.

## 11. Families Assessment

109. The intention of the proposal to introduce Parental Bereavement Leave is to support parents and families at a difficult time through offering paid leave that would otherwise not be available. Families as a whole will benefit; parents are able to take time away from work, provide support to, and be supported by, other family members, and the family as a whole can grieve together if they wish.
110. The Government fully respects the free choices made by individuals and families and does not intend to promote or force individuals to take leave if they do not think it will benefit

them or their families. However, for some, it will relieve a significant cause of anxiety at a difficult time.

## 12. Competition Assessment

111. The proposed changes would apply to all employers and are unlikely to affect the competitiveness of any particular sector due to the small number of businesses that will be affected.
112. Given the small number of employers that are likely to experience having to provide statutory Parental Bereavement Leave, the overall impact (of familiarisation, administration costs, reorganisation costs and wage-like costs) on businesses will remain small.
113. Issues of market share are not relevant because the proposals will apply to all sectors of the economy and also, with the total number of cases per year expected to be extremely low, the likelihood of any particular employer being disproportionately affected is very low. The proposed policies are very unlikely to affect market structure or the potential of new firms to enter markets; nor are the proposals expected to have an impact on firms' production decisions.

## 13. Risks and assumptions:

### *Modelling risks and assumptions*

114. The costings and analysis in this impact assessment are dependent on a set of key assumptions. We have identified those areas where the existing evidence base underpinning these assumptions is limited. We have used the consultation period to broaden the evidence base where possible, including a focus on existing bereavement leave entitlements provided by employers, the needs of bereaved parents and likely take-up rates of eligible parents. Evidence gathered during these consultations has been reflected in the revised assumptions used throughout this assessment.
115. In the assessment of options we allow for uncertainty by providing low, medium and high cost estimates modelled around varying levels of take-up. There is nevertheless the risk that actual costs lie outside of the range provided, although since the high estimate assumes 100% take-up of the full 2 weeks available for eligible people this is likely to be at the lower end of the range.
116. There is also a level of uncertainty in relation to the number of people eligible. We have estimated this number with the available evidence to take on board less traditional family arrangements.

## Annex A: Estimating absence costs to employers

117. The policy assessed in this impact assessment covers the introduction of Parental Bereavement Leave legislation. This is likely to lead to absence costs to employers as parents of bereaved children that are employed would have a right to a maximum of 2 weeks leave paid at the statutory rate. Employee absence has cost implications for employers, even though the employers do not incur wage costs for the periods of parental leave discussed in this impact assessment (although, as explained earlier, large businesses do incur some of the cost of the statutory payment for the paid leave entitlements). This annex explains the underlying assumptions and derives re-organisation and wage-like costs.
118. Type of absence costs:
- Wage costs - if the employee is paid by the employer despite being absent. While smaller employers will not incur such costs, larger employers will incur wage-like costs, because they cannot recover the full amount of statutory pay during the paid leave period.
  - Reorganisation costs
    - Employing temporary cover which is likely to be more expensive than the absent employee, and may also be less productive.
    - Re-allocating work among existing staff, which is costly because either additional overtime is paid so that output remains constant, or because in re-allocating work, some other work is dropped, resulting in a loss of output.
    - Not covering the absent employee's work and accepting a loss of output.
119. The choice between different types of cover will be influenced by four factors: the duration of absences and their nature (planned or unplanned, with for example, firms less likely to employ temporary cover for shorter absences), the size of the company/workplace, the nature of the business, and the skills needed in the particular job. While we recognise that differences in these factors mean that employers may use different methods to cover absence in different cases, we consider that in terms of employer costs, the same assumptions apply in each case. While these might not describe the situation for each employer perfectly, we feel that this simplified approach describes the overall impacts on employers sufficiently well without overcomplicating this impact assessment.
120. We have included an estimate of non-additional cost and applied this to absence costs; therefore accounting for the fact that some employers may already have these systems in place so they will not incur additional absence costs as a result of the legislation.

### Reorganisation costs

121. It is difficult to put an estimate to reorganisation costs because some elements are not directly observed; e.g. identifying loss of productivity is much more difficult than identifying the more obvious wage costs. In order to attempt to estimate the cost of reorganisation, we rely on the most recent estimates for the cost of absence from the Confederation of British Industry (CBI).
122. In 2013 the CBI<sup>29</sup> published a survey on absence and workplace health<sup>30</sup>, which estimated the weekly median cost of absence at £587. This figure includes the wage costs of absence, as well as an estimate of the reorganisation costs and non-wage labour costs, such as national insurance contributions. Deducting wage costs from this figure should thus provide an estimate of average weekly re-organisation costs to business.

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<sup>29</sup> We recognise the CBI will not be representative of all businesses; however, this is the best data source we can use for this estimate. Our estimate provides an average re-organisation cost for all businesses; in reality it may be the case that re-organisation costs vary with the size of the firm, with smaller businesses incurring a slightly higher cost and larger businesses incurring a slightly lower cost.

<sup>30</sup> Absence and Workplace Health Survey 2013, CBI.

123. Considering the CBI survey was published in 2013 (with data collection in 2012) we think it is most appropriate to use ONS data on median<sup>31</sup> earnings from 2012, rather than more recent estimates. In 2012, median weekly earnings were £406; however, this rate is not updated and therefore does not include National Insurance and employers' pension contributions that would result in an increase in the figure. Using Eurostat<sup>32</sup> data, we assume throughout this impact assessment that non-wage labour costs are 19.76% of wage costs. Updating the average weekly wage cost for 2012 of £406 by 19.76% results in an average weekly wage (including non-wage labour costs) of £486.
124. Finding the difference between the CBI's weekly median costs of absence of £587 and the weekly updated average weekly wage rate of £486 results in an estimated re-organisation cost of £101 per week, per employee. This translates to an average of 20.74% of total labour costs (=101/488).
125. We apply this 20.74% to the number of weeks of leave we anticipate bereaved parents will take to calculate business reorganisation costs. In reality, we would expect some businesses to have re-organisation costs above the estimated average of 20.74% of total labour costs, while some businesses might face costs significantly below, but we believe this simplified approach describes the overall impact sufficiently well. We have included an estimate of non-additional cost and applied this to absence costs, therefore accounting for the fact that some employers may already have these systems in place therefore legislating will not incur additional absence costs for them.

#### Wage-like costs

126. Firms which paid less than £45,000 in NIC in the previous tax year are defined as small and can recover all of their SMP payments. Employer NICs are 13.8% on weekly earnings above £155. Average weekly earnings in June 2017 were £506 per week, therefore average weekly employer NIC contribution was £48.44 per week. Overall, average yearly contribution by an employer per employee was around £2,500 and therefore in order to have a NICs payment per year greater than £45,000, we estimate a business needs to have around 20 employees. Thus, for the purpose of calculating the wage-like cost to employers, we define a small employer as one with <20 employees.
127. Using Business Population Estimates 2016 we find 9% of businesses have >20 employees and are therefore expected to pay greater than £45,000 in NIC contribution (large businesses), and 91% of businesses have <20 employees and are therefore expected to pay less than £45,000 in NIC contribution (small businesses).
128. Large employers (those with a National Insurance contributions bill of over £45,000) can recover 92% of statutory payments and will therefore face costs of  $0.08 * £140.98 = £11.27$  for each week of leave taken.<sup>33</sup> Non-wage labour costs are already accounted for in the re-organisation costs and the £11.27 has therefore not been updated further.
129. Smaller employers (those with a National Insurance contributions bill of £45,000 or less) can reclaim 103% of statutory payments made to their employees through HMRC. They will on average receive  $1.03 * £140.98 = £145.21$  and derive a benefit of £4.22 in terms of wage-like costs per additional week of leave taken.

<sup>31</sup> We think the median is the best value to use as there are likely to be some outliers skewing the mean significantly. Also, the CBI survey covers all kinds of absence, including sick leave, which is much more short-notice and thus likely more high-cost. So, going with the lower median cost figure seems appropriate.

<sup>32</sup> Eurostat. 2016. [http://ec.europa.eu/eurostat/statistics-explained/index.php/Hourly\\_labour\\_costs](http://ec.europa.eu/eurostat/statistics-explained/index.php/Hourly_labour_costs)

<sup>33</sup> This assumes no non-additional cost, i.e. that employers are not already providing bereavement leave schemes, as discussed before.

130. Our estimate of the average recovery rate for businesses is 94.2% therefore, on average, 5.8% of statutory payments made by businesses cannot be reclaimed from the Exchequer.

## Annex B: Post Implementation Review (PIR)

### **Basis of the review:**

It is proposed to introduce Parental Bereavement Leave, with an assumed implementation date of 2020. A review of this new policy would then take place in 2025, when the new rights have been established sufficiently.

### **Review objective:**

The objective of the review would be to assess the effectiveness of the policy in achieving the following objectives:

- Give bereaved employees the statutory right to paid leave to provide space for them grieve following the death of a child.
- Send a signal to employees and employers about the importance and value of recognising bereavement and providing adequate support and space to parents in that situation.

### **Review approach and rationale:**

Given the small numbers involved, the difficulty of sampling those who will have taken bereavement leave and the sensitivity of the issue, any review is likely to focus on take-up. We would seek to make use of HMRC administrative data on statutory payments reclaimed by employers to get a measure of overall take-up, and also conduct qualitative interviews with employer organisations and groups representing families to assess the effectiveness of the legislation and guidance.

### **Baseline:**

As pointed out in the impact assessment, the uncertainty around the baseline is considerable, and our assumptions for take-up are based on limited evidence. We nevertheless have indicative values, from a CIPD survey, for the proportion of firms that already provide bereavement leave and the extent to which they provide this on a paid basis.

### **Success criteria:**

- Evidence that parents who lose a child use the Parental Bereavement Leave they are entitled to.
- Evidence that the processes surrounding requests for leave are straightforward for employers to administer.
- Evidence of employers going beyond the statutory minimum in the provision of paid leave.

### **Monitoring information arrangements:**

Data and information will be monitored post implementation through administrative data from HMRC and ongoing discussions with key stakeholders in this area.