

Options Assessment for New Rights to Unpaid Bereavement leave including Pregnancy Loss

Lead department	Department for Business and Trade
Summary of proposal	The proposal is to introduce a new statutory right to day one unpaid bereavement leave, including pregnancy loss.
Submission type	Options Assessment – 28 th October
Legislation type	Secondary legislation
Implementation date	2027
RPC reference	RPC-DBT-25100-OA (1)
Date of issue	27 November 2025

RPC opinion

Rating¹	RPC opinion
Fit for purpose	The Department has evidenced the problem under consideration. The OA generates and discusses two policy option scenarios. The preferred way forward is to advance both scenarios to the upcoming consultation, which will inform a final decision. By providing illustrative impacts of two possible scenarios for bereavement leave the OA has effectively compared the two scenarios. The qualitative discussion of the proposed options and monetised analysis used to justify the preferred approach is sufficient at this stage and the Department reasonably makes the case for not selecting a specific scenario at this stage.

¹ The RPC opinion rating is based only on the robustness of the rationale, options identification (including SaMBA) and justification for preferred way forward, as set out in the [Better Regulation Framework guidance](#). RPC ratings are fit for purpose or not fit for purpose.

RPC summary

Category	Quality²	RPC comments
Rationale	Green	The OA evidences the problem under consideration, references ONS data and academic research. However, the OA could provide more detail on these data sources and draw on evidence from relevant post-implementation reviews and international examples. The OA's argument for intervention is focused on equity. The OA should provide a theory of change diagram.
Identification of options (including SaMBA)	Green	The Department advances only one option to the shortlist stage, consistent with the primary stage legislation. The Department then generates two options within this option but could benefit from using the Green Book's strategic options framework. The OA explains why non-regulatory reforms would be unlikely to meet the objective of the policy. The OA provides a sufficient SaMBA.
Justification for preferred way forward	Green	The Department has monetised the key impacts for both policy scenarios. The OA states that there is uncertainty in the business take-up rate so could benefit from applying some sensitivity analysis to these variables. The OA has effectively compared the two scenarios and reasonably makes the case for not selecting a specific option at this stage, instead choosing to consult on each of the potential two options.
Regulatory Scorecard	Satisfactory	The OA would be improved by presenting an NPSV and EANDCB metric based on the estimated monetised costs. The OA does well to discuss a number of distributional impacts
Monitoring and evaluation	Satisfactory	The Department outlines the data sources which will be used to underpin this review. The OA could benefit from including further detail on the nature of these qualitative and quantitative data, their metrics and how they will be gathered.

² The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. The definitions of the RPC quality ratings can be accessed [here](#).

Summary of proposal

The government is committed to supporting employees through the most difficult moments in life. Managing grief in the workplace can be difficult for employers and employees. Employees may need to take time off work, their performance may be affected, or they may be temporarily unable to perform their role.

The proposal is to introduce a new statutory right to day one unpaid bereavement leave, including pregnancy loss. This will be enacted through the powers given in the Employment Rights Bill. The details of the entitlement that can be taken through secondary legislation will be refined after consultation. This change addresses a longstanding gap in statutory support and recognises that pregnancy loss can be experienced as a bereavement.

The OA assesses two option variants:

- Scenario 1, based on **one** week available to immediate family members – Adult Children, Partners, Siblings, Parents.
- Scenario 2, based on **two** weeks available to a broad definition of family – Adult Children, Partners, Siblings, Parents, Grandparents, Grandchildren, Step-parents, Step-siblings, Half-siblings.

Rationale

Problem under consideration

The OA outlines the problem under consideration, explaining that intense grief can impair an employee's ability to perform their job and increase the risk of related health conditions, with pregnancy loss specifically also leading to possible reduced earnings and employment. The Department evidences this problem, referencing ONS data on reduced employee earnings and employment following an adverse pregnancy event and findings from the Marie Curie charity which estimate that 5% of people experiencing intense grief will leave their jobs. The OA also cites academic research that has found an elevated incidence of mental health conditions and stress among women who have experienced miscarriage and that supportive workplaces can ease the grieving process and return to work.

However, the OA could be improved by providing more detail on these data sources to support the rationale for intervention. In particular, the OA could extract the relevant evidence from the academic research to support its claims and explain how this data has been collected and the research methods involved. Furthermore, as the Department references evidence from the existing Parental Bereavement impact assessment, the OA could benefit from using any relevant evidence from its post-implementation review to support the rationale, if available. The OA could also benefit from using any international examples of statutory bereavement leave rights in other countries to support the rationale for intervention.

Argument for intervention

The OA's argument for intervention is based on equity. The OA explains that inconsistent leave policies create inequity and limits social benefits. The government needs to intervene in the labour market to extend individual employment rights and provide the necessary rights and protections. The OA could be improved by providing the relevant evidence to support this argument, perhaps including examples of when leave policies have been unfairly distributed in the labour market.

Objectives and theory of change

The OA provides suitable objectives, although could benefit from fully applying the SMART framework. For instance, the objective to ensure employers provide a minimum standard of bereavement leave is not specific and the OA could specify some potential standards in this objective. The OA could also comment on whether the objective for employees to have time to recover physically and emotionally from pregnancy loss is achievable or realistic. Furthermore, the OA could benefit from providing more detail on the measurability and time-bound aspect of the framework when forming the objectives. The OA should provide a theory of change diagram.

Identification of options (inc. SaMBA)

Identification of options

The Department sets out two options in its long-list, a do-nothing option and the preferred option to introduce a new statutory entitlement for bereavement leave. The OA explains that as this is a manifesto commitment, no further long-list policy options have been developed. This is consistent with the primary stage legislation for this policy (the Employment Rights Bill). The RPC green-rated this measure within its overall opinion for the Employment Rights Bill.

Therefore, only one option advances to the shortlist stage. The Department then generates and discusses two options within this option: one week entitlement and limited family member scope; two weeks and a wider scope. The Department details these options in the OA, describing qualitatively what they would involve. The OA explains how these scenarios have been scaled up based on eligibility and duration of leave but could benefit from using the Green Book's strategic options framework filter to detail how research and advice of experts has been used to generate these options. In particular, the OA could use the framework filter to demonstrate clearly how the scope has been incrementally increased for each option. In addition to scope and delivery, the Department could also use the framework filter to systematically build up options that differ based on funding and implementation. For instance, the OA could include an option on paid/partially paid bereavement leave and could discuss options on the window of time in which the leave must be taken and the types of pregnancy loss in scope. The OA could then assess these options against the Green Book's critical success factors. Whilst it may not be appropriate to discard options before the consultation, the OA could use the critical success factors to visibly rank and display the options. This would be for the benefit of the consultation.

The OA advances both options to the upcoming consultation, explaining that the details of the entitlement will be agreed after the consultation. This approach is sufficient, and the Department justified the use of the consultation to inform the final decision when developing the primary stage legislation for this policy. In both the primary and secondary legislation, the Department has reasonably made the case for introducing the new statutory right relative to the do-nothing option, as the do-nothing option would not ensure employees have the appropriate protection to take time off to grieve a bereavement.

The OA explains that non-regulatory reforms would be unlikely to meet the intended objective of the policy which is to ensure employees have appropriate protection to take time off to grieve a bereavement, and that these rights are enforced, enabling employees to bring a case to the employment tribunal (ET) if necessary. Nonetheless, the OA could benefit from including some examples of non-regulatory alternatives that could be used, such as codes of conduct or guidelines on bereavement leave given to employers.

SaMBA and medium-sized business (MSB) assessment

The OA provides a sufficient SaMBA. The Department justifies why SMBs should not be exempt, explaining that the broader societal benefits of increased worker security and fairness in the labour market justify the policy's scope. As a result, exempting the SMBs would undermine the policy objective of providing more equity in the provision of bereavement leave. This equity argument is sufficient.

The OA also considers the potential disproportionate impacts of the policy on SMBs, concluding that whilst SMBs may be disproportionately impacted from unplanned absences as they have limited resources to reorganise compared to larger businesses, evidence from the consultation for the Parental Bereavement Leave IA suggests that SMBs will only familiarise themselves with the legislation as and when they need to. The Department has done well to also consider some mitigations for address any potential impacts, referencing specific guidance to support SMBs and the consultation which will provide further evidence on small business concerns.

Justification for preferred way forward

Appraisal of the shortlisted options

The Department has identified and monetised the key impacts for both the policy scenarios, the ongoing reorganisation and administrative costs for businesses. These costs have been monetised separately for bereavement leave for loved ones and bereavement leave for pregnancy loss, with the Department then appraising two scenario options for each type of bereavement. When summing the bereavement types in each scenario, the total ongoing costs are between £40.4m (Scenario 1) and £95.0m (Scenario 2). The Department could benefit from combining this with the familiarisation costs to present an overall NPSV estimate.

The assessment also includes a qualitative discussion of the non-monetised benefits, which include welfare and productivity benefits. The legal and administrative costs resulting from additional claims to the Advisory, Conciliation and

Arbitration Service (ACAS) and the Employment Tribunal (ET) also remain non-monetised, although the Department has helpfully conducted some high-level analysis to indicate the potential scale of additional and ACAS and ET cases. This analysis presents the upper bound and suggests that the policy is unlikely to lead to any significant increase in the number of claims.

The reorganisation cost estimates draw on the Confederation of British Industry (CBI) estimate of the average annual cost of absence per employee. The Department deducts wage and non-wage costs from this to identify the proportion of those costs attributable specifically to reorganisation (32%). This proportion is then applied to current median weekly earnings. The administrative costs are calculated by applying the HR time associated with bereavement leave requests to the projected take-up rates for bereavement leave under the two scenarios. The OA explains that whilst there may be variation in these costs across businesses, this impact has been modelled as a constant due to uncertainty about the take-up rates across business size. The OA explains the full methodology for these calculations, including the data and assumptions used. These include assumptions on the average number of working-age family member of deceased persons, the employment rate and evidence from similar entitlements to on the proportion of employees who will likely take up bereavement leave. The take-up rate of 5% and 10% appears low and the OA states that there is a large range of uncertainty in the this assumption. Therefore, the OA could benefit from applying some sensitivity analysis to these variables to test their impact on the overall cost estimates. The OA could also use the consultation to establish a firmer evidence base for the final IA, clarifying current uncertainties present in the OA such as take-up costs to businesses and expected benefits.

The OA appears to apply a conservative counterfactual approach, as the cost estimates do not account for the fact that many businesses already offer some form of paid bereavement leave and so may be able to use existing systems and processes. However, the OA could benefit from clarifying this counterfactual position.

The OA could provide some further justification for its familiarisation cost estimates, as these appear underestimated. In particular, the OA could explain the origin behind the assumption that familiarisation will only take 1.5 hours as this does not account for the overall change to internal policies, or the fact senior staff or external lawyers and consultants will be involved in familiarising. However, due to the conservative counterfactual approach, it is likely that the reorganisation costs are an overestimate, and these under/overestimates may net out overall.

Selection of the preferred option

The assessment does not select a preferred option, instead the preferred way forward is to advance both scenarios to the upcoming consultation, which will inform a final decision. By providing illustrative impacts of two possible scenarios for bereavement leave and two possible scenarios for pregnancy loss leave, the OA has effectively compared the two scenarios. Overall, the qualitative discussion of the proposed options and monetised analysis used to justify the preferred approach is sufficient at this stage. The appraisal demonstrates how extending statutory

bereavement leave rights would have a positive social impact relative to the baseline scenario. The Department reasonably makes the case for not selecting a specific scenario at this stage, instead choosing to consult on each of the potential two options.

Regulatory Scorecard

Part A

Impact on total welfare

The OA monetises the costs for the different scenario options. The Department explains that it has not been possible to monetise the benefits of the options but instead qualitatively discusses the benefits, including the wellbeing and productivity benefits to employees. However, the OA would be improved by presenting an NPSV metric based on the monetised costs that have been estimated. The OA could caveat that these do not include benefits. Furthermore, as the welfare benefits to employees appear to be significant in driving the overall outcomes of the proposal, the OA could expand its discussion of these benefits, alongside any rough estimates to indicate their potential scale.

Elsewhere in the OA, the Department discusses the public sector costs associated with employers making claims to an ET. The OA concludes that these will be negligible but could benefit from expanding on this reasoning and including the impact in the total welfare section of the scorecard.

Impacts on business

The OA indicates that the options are expected to have an overall negative impact on business due to the costs incurred. These costs include familiarisation costs and ongoing administrative and reorganisation costs. The OA monetises these costs but should convert these into an EANDCB metric. The Department also discusses the non-monetised impacts of legal costs from additional ACAS and ET cases, as well as the benefits incurred by employers through avoided absenteeism, increased employee retention and productivity.

Impacts on households, individuals or consumers

The OA indicates that the proposal will have an overall positive impact on households, as the policy is expected to provide positive wellbeing impacts on employees. The OA also discusses the potential costs to households from making claims to ET and ACAS. However, the Department concludes that these are negligible as when an employee brings a claim to ACAS or ET, they will also potentially benefit from a settlement or tribunal award. Similarly, households will incur the loss of income when they go on leave, but given the leave is discretionary it is assumed the benefit to the employee must be equal or exceed these costs.

Distributional impacts

The OA does well to discuss a number of distributional impacts, explaining that lower income groups may be unwilling to take leave. However, where they do, it is

assumed the benefits outweigh the costs. The OA also explains that there may be a distributional variation in groups of employees who will benefit from the policy. This includes those aged 35-49 and employees from ethnic backgrounds where larger family sizes are more common. Therefore, the OA benefits those groups with protected characteristics.

Part B

The OA explains that the policy is not expected to have impacts on international considerations or natural capital and decarbonisation. The OA also indicates an uncertain impact on business environment due to the unknown relationship between managing bereavement policies and business investment. The OA could benefit from expanding its discussion of this impact, considering other indicators for the ease of doing business in the UK. For instance, the OA could consider how the proposal will impact innovation and how this may be reduced across businesses due to a reduction in staff and resources. The OA could also discuss how the proposal may impact competition. In particular, the Department could consider how reducing labour may affect the supply and demand of goods and services in a competitive market equilibrium and how this will impact the long-term price and quality of goods and services provided by these businesses. Whilst the Department has not modelled the business costs for different businesses due to uncertainty on the take-up rates, the OA could provide some examples of businesses and how the proposal will impact their supply side possibilities.

Monitoring and evaluation

The OA confirms that a post-implementation review will be conducted in five years' time and outlines the data sources which will be used to underpin this review, including a survey of employees and parents and feedback from stakeholders. The OA explains that these will capture how the provisions are being used as well as satisfaction and awareness but could benefit from detailing the specific metrics and research questions which will underpin these. The OA should also confirm how stakeholders will be engaged (e.g. through interview or survey). The OA could also benefit from setting out the high-level research questions that will shape the future evaluation. These could be clearly linked to the SMART objectives identified earlier in the OA. The OA states that the review will consider whether the proposal has led to any unintended consequences but could benefit from identifying what these unintended consequences might be.

Regulatory Policy Committee

For further information, please contact enquiries@rpc.gov.uk. Follow us on X [@RPC_Gov_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](https://www.linkedin.com/company/regulatory-policy-committee) or consult our website www.gov.uk/rpc. To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).