



Consortium for the Regional Support for Women in Disadvantaged and Rural Areas

Response to: Miscarriage Leave and Pay

Issued by: Department for the Economy

December 2022

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Foyle Women's
Information
Network



Women's Regional Consortium: Working to Support Women in Rural Communities and Disadvantaged Urban Areas

1. Introduction

1.1 This response has been undertaken collaboratively by the members of the Consortium for the Regional Support for Women in Disadvantaged and Rural Areas (hereafter, either the Women's Regional Consortium or simply the Consortium), which is funded by the Department for Communities and the Department of Agriculture, Environment and Rural Affairs.

1.2 The Women's Regional Consortium consists of seven established women's sector organisations that are committed to working in partnership with each other, government, statutory organisations and women's organisations, centres and groups in disadvantaged and rural areas, to ensure that organisations working for women are given the best possible support in the work they do in tackling disadvantage and social exclusion.¹ The seven groups are as follows:

- ♀ Training for Women Network (TWN) – Project lead
- ♀ Women's Resource and Development Agency (WRDA)
- ♀ Women's Support Network (WSN)
- ♀ Northern Ireland's Rural Women's Network (NIRWN)
- ♀ Women's TEC
- ♀ Women's Centre Derry
- ♀ Foyle Women's Information Network (FWIN)

1.3 The Consortium is the established link and strategic partner between government and statutory agencies and women in disadvantaged and rural areas, including all groups, centres and organisations delivering essential frontline services, advice and

¹ Sections 1.2-1.3 represent the official description of the Consortium's work, as agreed and authored by its seven partner organisation

support. The Consortium ensures that there is a continuous two-way flow of information between government and the sector. It also ensures that organisations/centres and groups are made aware of consultations, government planning and policy implementation. In turn, the Consortium ascertains the views, needs and aspirations of women in disadvantaged and rural areas and takes these views forward to influence policy development and future government planning, which ultimately results in the empowerment of local women in disadvantaged and rurally isolated communities.

1.4 The Women's Regional Consortium appreciates the opportunity to respond to the Department for the Economy's consultation on Miscarriage Leave and Pay and broadly welcome these proposals to introduce these new rights and entitlements to families experiencing the grief and sorrow arising from pregnancy loss.

1.5 The Women's Regional Consortium also endorses the response made by the Women's Policy Group and supports the WPG comments in relation to these proposals.

2. General comments

We welcome the Department's plans to introduce statutory protections in this area and we believe that it is right and proper to provide a minimum level of support for bereaved parents. Miscarriage is the most common kind of pregnancy loss with an estimated 1 in 5 pregnancies ending in miscarriage.² Given that miscarriage is a relatively common experience there is a real need to make changes to the law to reflect the needs of our society and to provide the appropriate support to women and their partners experiencing this loss.

Having a miscarriage can be a very painful and distressing experience for a woman and her family. The impact of this type of loss is very deeply felt and can manifest

² <https://www.tommys.org/baby-loss-support/miscarriage-information-and-support/miscarriage-statistics#general>

itself in many different ways. It can take weeks for a woman's body to recover physically and the mental recovery can take even longer. Grief is a very individual experience and one which everyone copes with differently and may not just involve emotions but may result in physical illness also. Grief, in all its forms, can cause difficulties in focusing and motivation levels which has clear implications for the world of work. Therefore, being able to take time off of work can be vital to ensuring recovery both physically and mentally.

Providing statutory miscarriage leave and pay would allow mothers and their partners to come to terms with their loss without being forced to take sick leave. Suffering miscarriage is not an illness, it is a loss which can be extremely traumatic for expectant parents. Being unable to access specific leave for this purpose fails to recognise this loss and the existence of their child no matter how early in the pregnancy the baby was lost. Providing a legal right to paid leave would give permission to take time to grieve and provide the necessary support and compassion when it is needed most.

Research by Mumsnet³ has shown that care for women going through miscarriage is getting worse with an increase in the number of women who labelled their experiences as poor or very poor – 21% up from 17% in 2019. Many of the respondents talked about a lack of support from their employer and a fifth of women said that they would have liked to take time off work following their miscarriage but that they did not feel able to ask. 96% of the respondents supported the proposed introduction of three days of paid miscarriage leave for women who miscarry under 24 weeks and their partners. As the founder and CEO of Mumsnet, Justine Roberts said:

“More than 10 years of data shows that miscarriage care in the UK remains patchy and that some aspects, such as waiting times, appear to be getting worse. There’s no doubt Covid hasn’t helped but much more can be done to ensure that women’s experiences aren’t more distressing than they need to be at such a difficult time. It’s clear that there’s

³ <https://www.mumsnet.com/news/mumsnet-survey-reveals-miscarriage-care-is-getting-worse>

overwhelming support for miscarriage leave, which is often granted in an ad hoc way. We'd urge employers to do the right thing and formally introduce miscarriage leave to save women increased angst at an already extremely difficult time."

Pressures on the health service including increases in waiting times can mean that accessing the health care required for a miscarriage may take longer. This can lengthen both the physical and emotional recovery from the loss of a baby. It is therefore important that statutory leave is provided and is of sufficient length to ensure that the appropriate health care can be accessed.

The Equality Commission for Northern Ireland has documented high levels of pregnancy and maternity discrimination in Northern Ireland. Complaints of sex discrimination on the grounds of pregnancy and maternity are continually the single largest category of sex discrimination made to their discrimination advice line – equating to almost 50% of all calls relating to sex discrimination.⁴

A formal investigation into the treatment of pregnant workers and mothers carried out by the Equality Commission⁵ showed that many women believed their career opportunities have been negatively affected by their pregnancy or having taken maternity leave. Half of the women (50%) thought their career opportunities were worse than before their pregnancy. Further, a significant percentage (36%) of women who participated in this investigation believed that they have been treated unfairly or disadvantaged at work as a result of their pregnancy or having taken maternity leave.

Women are aware of the high levels of discrimination and unfairness experienced by mothers at work and this can result in a reluctance to disclose their pregnancies to their employer. These can be incredibly difficult conversations to have with

⁴ [ECNI - 'View from the Chair' - Pregnancy and Maternity in the Workplace \(equalityni.org\)](https://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Expecting_Equality-PregnancyInvestigation-SummaryReport.pdf)

⁵ Expecting Equality, Equality Commission for Northern Ireland, November 2016
https://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Expecting_Equality-PregnancyInvestigation-SummaryReport.pdf

employers and many women are not comfortable sharing their experiences. We are concerned that without greater and more robust action to reduce the incidences of discrimination many women who miscarry will be too afraid to disclose this information despite being able to avail of designated leave for this purpose.

It is clear that in these circumstances there is a need for compassionate and understanding employers who do not add to the distress and worry of their employees at a very difficult time. We want to acknowledge that we see the proposals in the consultation as a minimum entitlement and we would expect that employers should be even more flexible and generous to employees in this difficult situation. This could include longer amounts of leave, more flexible leave periods and full pay during any leave. The consultation does not mention flexible working and we would like to see employers offering temporary changes to employment arrangements through flexible working to help parents cope with the impact of a miscarriage and in dealing with their grief over time.

The impact of the Coronavirus pandemic has brought issues of bereavement to the fore. Many more people have been touched by death and grief as a result of the pandemic. It has shown the need for employers to be flexible and compassionate and to have policies in place to deal with these situations. An inability to take leave and financial hardship should not be added to the list of considerations of those who are bereaved regardless of how they experience loss – as a parent, a child, partner, sibling, etc. We therefore believe that the right to bereavement leave and pay should be extended to all employees experiencing close family bereavement.

Given the nature of this leave and the fact that experiencing this loss will be largely unexpected for the majority of these parents there is a real need to provide extra support. Experiencing a miscarriage is likely to have a serious impact on their emotional, financial and working lives. We would argue that these rights should also be available to those who are self-employed for the same reasons.

3. Consultation Questions

P1 Your name

Siobhán Harding

P2 Your email address

policy@wsn.org.uk

P3 Are you:

- An individual
- An employer
- Representing a trade union
- Representing an industry or employer association
- Representing a charitable or community and voluntary organisation
- Other (please specify)

P4 For employers and organisations only:

Please provide the name of your company or organisation

Women's Regional Consortium

Please indicate if you are content for the name of your organisation to be listed in an Annex to the Departmental Response? The Annex will list the name of the business or organisation, but not the person who responded on its behalf.

We are content for the name of our organisation to be listed in the Annex.

P5 If you are an individual, are you:

- Employed
- Self-employed
- Unemployed
- Retired
- Not looking for work
- Other

P6 If you are in employment, what type of organisation do you work for?

- Private sector organisation
- Public sector
- Charity/voluntary sector
- Other

P7 If you are in employment, how many people work for your organisation?

- Micro-business (0-9 employees)
- Small business (10-49 employees)
- Medium-sized business (50-249 employees)
- Large business (250+ employees)

P8 If you are an employer, how would you classify your organisation?

- Private sector
- Public sector
- Charity/voluntary sector
- Other (please specify)

P9 If you are an employer, how many employees work for your organisation?

- Micro-business (0-9 employees)
- Small business (10-49 employees)
- Medium-sized business (50-249 employees)
- Large business (250+ employees)

Eligibility

1) Do you agree that the existing conditions within parental bereavement leave and pay regulations which give definition and set entitlement should be modified to extend to workers and employees who have experienced a miscarriage up to the end of the twenty-third week of pregnancy?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know
- No opinion

The Women's Regional Consortium welcomes the Department's plans to extend entitlement to leave and pay for workers and employees who have experienced a miscarriage up to the end of the twenty-third week of pregnancy. We believe that this extension rights a wrong in the existing provisions which currently do not allow for this and addresses an unfairness that currently exists for those who find themselves in this situation.

It is important that this loss is recognised no matter the length of the pregnancy so that it provides some acknowledgement of these briefest of lives. It is unfair that pre-24-week baby loss is currently unrecognised and can result in these parents feeling that this loss is not as important or serious as those who have carried babies for a longer term. The loss of a pregnancy at any stage can be devastating, it should be recognised and all parents in this situation should be given time to grieve and recover.

Providing paid leave for miscarriage will help to provide acknowledgement of the baby's life and of the impact of the loss no matter how early the loss happened.

The creation of a legal right to miscarriage leave could help to ensure that those who lose a baby are more likely to disclose a miscarriage to their employer and do not feel pressured into going back to work too soon. It could help to remove some of the fear of reporting and silence around miscarriage especially for those who lose babies earlier in the pregnancy.

The Women's Regional Consortium believes that the provision of paid miscarriage leave would benefit both workers and employees as well as employers. It does not benefit employers to have workers and employees at work when they unwell, upset and feeling under duress to return to work after suffering the trauma of a miscarriage. Treating workers and employees with sensitivity and providing the appropriate leave when necessary will help to ensure that workers and employees can return to work when they have had time to grieve and to start to come to terms with their situation.

Duration of Miscarriage Leave and Pay and how and when it can be taken

2) Do you agree that miscarriage leave and pay entitlement should be two weeks, which can be taken at any time within 56 weeks from the date of a miscarriage as single weeks or as a two week block?

- Strongly agree
- Agree
- Disagree

- Strongly disagree
- Don't know
- No opinion

As outlined in Section 2 each person's grief is unique and everyone reacts differently to it and therefore has different needs. This grief is likely to be compounded at specific times such as birthdays, anniversaries and other special occasions. We therefore believe that there should be maximum flexibility around how this leave is taken. We would ideally like to see this leave offered in smaller blocks such as units of a day to provide maximum flexibility to workers and employees in this situation. Providing access to this right as flexibly as possible can help workers and employees to make the transition back to work in the way that best suits them.

As outlined in Section 2 the Women's Regional Consortium would like to see the proposals outlined in the consultation as a minimum entitlement and we would expect that employers should be even more flexible and generous to employees in this difficult situation. This could include longer amounts of leave, more flexible leave periods and full pay during any leave. The consultation does not mention flexible working and we would like to see employers offering temporary changes to employment arrangements through flexible working to help parents cope with the impact of a miscarriage and in dealing with their grief over time.

Notice required to take Miscarriage Leave and Pay

3) Do you agree that notice requirements for miscarriage leave and pay should mirror existing parental bereavement leave and pay requirements?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know

- No opinion

We agree that for ease of understanding and consistency that notice requirements for miscarriage leave and pay should mirror existing parental bereavement leave and pay requirements. However, given the nature of this leave and pay and particularly immediately after a miscarriage employers should be as flexible as possible with regards to notice requirements.

We do not believe that parents should be required to provide notice before the time they would normally start work on the first day of the period they want to take off work if the leave is to be taken immediately after miscarriage. Parents may have immediate medical needs and may be feeling a range of emotions including shock and grief. In many cases miscarriage will be totally unexpected and there will be no warning that this is going to happen. It would therefore be unreasonable and insensitive to expect them to provide notice in the immediate aftermath of a miscarriage. We suggest the wording as soon as is reasonably practicable should be sufficient in terms of notice immediately after a miscarriage to access paid leave.

Where leave is to be taken at a later period it is more reasonable to require notice. Employers should be as flexible and compassionate in these circumstances as possible.

Evidence required for Miscarriage Leave and Pay

4) Do you agree that it should be a requirement for a person intending to claim miscarriage leave and/or pay to provide medical confirmation of a miscarriage up to the end of the twenty-third week of pregnancy?

- Strongly agree
- Agree
- Disagree
- Strongly disagree

- Don't know
- No opinion

We do not believe that there should be any medical evidence requirements for miscarriage leave and pay. This is a distressing time for those experiencing a miscarriage and they may be dealing with a range of emotions including shock and grief. It would therefore be insensitive and could create the potential for re-trauma. We believe that many employers would be uncomfortable in asking an employee for evidence in these circumstances also.

No parent wants to be in the position where they will need this time off. This leave and pay is for those who really need it to cope during a difficult time and therefore there should be no evidential requirements.

The consultation acknowledges a range of difficulties with the need to provide medical evidence including that miscarriage can occur before a pregnancy has been medically confirmed, medical support may not be obtained for every miscarriage, difficulties around the sharing of sensitive personal medical information which could cause additional upset and distress and the possibility of additional administrative costs for employers. For all these reasons and for the potential impacts on those experiencing miscarriage we strongly disagree with the requirement for a person to provide medical confirmation of a miscarriage.

We agree with our colleagues in the Women's Policy Group that if self-certification is acceptable for parental bereavement entitlements, it should also be acceptable for miscarriage leave and pay.

Statutory provision for payment and day 1 entitlement

5a) Do you agree that the statutory payment for miscarriage should be the same as that which is paid for stillbirth and child death?

- Strongly agree

- Agree
- Disagree
- Strongly disagree
- Don't know
- No opinion

We agree that for consistency and simplicity that the statutory payment for miscarriage should be the same as that which is paid for stillbirth and child death. We believe that financial hardship/debt should not be added to the list of concerns that parents have after suffering a miscarriage and no one should be forced to go to work over financial concerns at this difficult time.

Ideally, we would like to see leave for miscarriage, stillbirth and child death paid more generously than the statutory rate. We would like to see employers offering all this leave with full pay.

5b) Do you agree that workers and employees should be entitled to statutory parental bereavement pay for miscarriage, stillbirth and child death from the first day of their employment?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know
- No opinion

We do not believe that there is a requirement for a qualification period for payment of parental bereavement pay for miscarriage, stillbirth and child death. We firmly believe that these rights should be 'day one' rights.

The loss of a child through miscarriage, stillbirth and child death is an extremely traumatic event in anyone's life regardless of how long they have been working for their employer. It is cruel and unfair to deny someone the access to this pay simply on the basis of how long they have worked for their employer. We believe these rights should be provided to all workers and employees regardless of their length of service. It is a fair and compassionate response to provide this leave and pay to all workers and employees who experience this loss.

Additional information

6) Please use the space below if you wish to provide any additional comments about any aspect of this consultation. Please note, we may choose to take and anonymise excerpts from comments by individuals made in the additional comments text box below. You are not required to provide further information in this box or any personal information. Excerpts from responses made on behalf of organisations may be published in a future departmental response unless the organisation makes it clear they do not wish for this to happen.

If you are responding as an individual, please indicate here if you are content with anonymised extracts from the box above to be included in the published Departmental response.

If you are responding on behalf of an organisation and have confirmed you are content for the name of your organisation to be listed in an Annex to the published departmental response, please indicate here if you are content with extracts from the box above to be included in the published Departmental response.

The Women's Regional Consortium is very supportive of the proposals to extend parental bereavement leave and pay regulations to cover miscarriage as outlined above. However, we support the calls from our colleagues in the Women's Policy Group (WPG) for the following improvements to the proposals to ensure that everyone can see the benefits from this leave and pay:

- The consultation document defines miscarriage as an "unintentional miscarriage" which excludes those who end their pregnancies via medical intervention. This includes pregnancies that are ectopic and non-viable and require termination to save the life of the pregnant person as well as abortion

for non-medical reasons. Abortion has been decriminalised in Northern Ireland since 2019 and services have recently been commissioned. We agree with our colleagues in the WPG that compassionate leave should be provided to people who have experienced pregnancy loss without judgement or discrimination. Indeed, CEDAW specifies that legislation in all parts of the UK must not further exacerbate the stigma that surrounds abortion. We would therefore like to see the proposals reworded so that they include all pregnancy loss regardless of the circumstances.

- The consultation document refers to “pregnant women and their partners” but as the WPG note children, non-binary people and transgender men can experience pregnancy. The WPG have suggested a more inclusive form of words “people who experience pregnancy loss and their partners” and we are in agreement that this would be more inclusive. The proposals should also include more clarity on what counts as a “partner” to ensure that it covers couples who do not live in the same house and that same sex parents are also included.
- We support the WPG call for the proposals to explicitly include the loss of a pregnancy where conception occurred through IVF and failed implantation of an embryo transfer. Those experiencing fertility issues and going through the process of IVF face significant physical and emotional challenges and the loss of a pregnancy in these circumstances can be extremely distressing.

We also wish to highlight that there are challenges in the implementation of rights especially given that Northern Ireland is a small business economy. Small businesses account for 99.9% of all businesses in Northern Ireland and employ more people than all the larger businesses and the entire public sector combined.⁶ It can be more difficult for small businesses to provide flexible working opportunities and to provide enhanced leave as they can experience more problems with disruption to their business. This should be given special consideration so that these small business have access to greater levels of support. Small businesses must be provided with greater levels of help and support in the provision of these policies so

⁶ <https://yeti.fsb.org.uk/standing-up-for-you/national-offices/northern-ireland>

that these rights do not simply exist on paper and so that workers and employees have realistic access to them.

Employees and workers must feel that they truly have access to these rights. Some employees experience negative attitudes from their employers when trying to exert their rights in relation to the full range of family friendly and parental leave rights and many feel pressured into going back to work too soon. Employees report “*feeling guilty*” about asking for their rightful entitlements or feeling like they “*owe*” their employer if they are “*allowed*” to take leave or are given flexible working arrangements. Many feel shamed into silence and feel unable to assert their rights. We have already highlighted in Section 2 the high levels of pregnancy and maternity discrimination that exist in Northern Ireland and this must be a consideration in these proposals.

Many of the family friendly employment rights depend on genuinely supportive employers so that these policies go beyond words and are committed to in practice. All employers must be informed and supported around the provision of these rights so that employees can access them without fear or favour.

Lack of knowledge of rights and entitlements is a big issue and information must be available in ways that people can easily understand. This is true for both employers in understanding and implementing the rights available but also for employees in terms of exerting their rights. It is therefore vital that these statutory rights are supported by clear, comprehensive and timely guidance that supports both employers and employees to understand these rights. Information and advice around these policies must be provided in a format that is accessible and easily understood.

The benefits to employers of providing flexible, family-friendly and compassionate workplaces are well documented. There is no doubt that working parents feel more goodwill towards their employer if they feel valued and respected within their working environment. This helps to increase loyalty and retention rates. It helps to reduce employee turnover and associated costs, potential reductions in sick leave and helps

to boost employee wellbeing and productivity. It can also help organisations to attract new staff and diverse workforces.