

Bereavement benefits and cohabiting parents

One in five parents raising children can't claim bereavement benefits if their long-term partner dies, because they weren't married or in a civil partnership before the death.

On 22 June 2016, the Government announced it would not extend eligibility to these widowed parents. Here is why we think this is wrong.

Introduction

1. We estimate that every year, over 2,000 families face the double hit of one parent dying, and the other parent realising that they and the children aren't eligible for bereavement benefits.
2. If they had been married or in a civil partnership with their partner who died, they could claim Bereavement Payment (BP) and Widowed Parent's Allowance (WPA), but if they were living together without being married, they aren't eligible. That's the case even if they had been living together for many years and had children together.
3. Different parents miss out by different amounts depending on how long they would have been able to claim for if they had been married, how much National Insurance their partner had paid, and what they earn.
4. For a parent earning around £10,000 a year, WPA is worth around £46 a week, which means that people who weren't married to their partner lose out by £2,400 a year. In total, this sees them £15,000 worse off on average, but in the most extreme cases, families are over £47,000 worse off over their children's childhood¹.
5. For a parent earning around £20,000 a year, WPA is worth around £90 a week or £4,680 a year. In total, this sees unmarried parents on average £28,000 worse off (and up to £91,000²) over their children's childhood.

Why isn't this fair?

6. The higher rate of bereavement benefit currently paid to those with children is in recognition of the costs - emotional, practical and financial - of bringing up children when a partner has died. Children themselves have no influence over whether their parents are married or not, so it seems harsh to deprive some of financial support following a parent's death based on their parents' marital status.
7. Lots of couples don't realise they wouldn't be eligible: more than half (53%) of people cohabiting with a partner believe wrongly that living together for some time brings them the same legal rights as if they were married³: the stubborn myth of the 'common law' marriage.
8. This confusion is partly because the means-tested benefits and tax credit systems treat couples as one unit, whether they are married or not. The Family Test⁴ includes cohabitation within its definition of couple relationships, and the Family Law Reform Act 1987 identifies parents as being parents irrespective of whether they are married or not⁵. So sometimes a marriage certificate matters, and other times it doesn't. Sadly, for bereavement benefits, it definitely does.

¹ £46.20 WPA x 52 weeks x median claim of 5.5 years, plus £2k BP = £15,213. £46.20 WPA x 52 weeks x longest claim of 19 years, plus £2k BP = £47,646

² £90.04 WPA x 52 weeks x median claim of 5.5 years, plus £2k BP = £27,751. £90.04 x 52 weeks x longest claim of 19 years, plus £2k BP = £90,960

³ Barlow, A., Burgoyne, C., Clery, E., & Smithson, J. (2008). Cohabitation and the law: myths, money and the media. In A. Park, J. Curtice, K. Thomson, M. Phillips, Mark C. Johnson, & E. Clery (Eds.), *British Social Attitudes: The 24th Report*. (2007/2008, pp. 29-53). London, England: SAGE Publications Ltd.

⁴ Department for Work and Pensions (2014) *The Family Test: Guidance for Government Departments*

⁵ <http://www.legislation.gov.uk/ukpga/1987/42/section/1>

9. Unmarried partners are often in a worse position financially than those who were married: they may be ineligible for death benefits or pensions. If the person died without making a will, unmarried partners don't inherit anything automatically⁶.

Will things change?

10. In 2012, the Government ran a consultation on 'Bereavement Benefits for the 21st Century'. But they specifically said this wouldn't include a review of the situation for cohabiting couples – even though the growing proportion of couples living together without marrying is one of the biggest social changes that the 21st century has seen already⁷.
11. A new benefit – Bereavement Support Payment (BSP) – will replace the current system of bereavement benefits in April 2017, but cohabiting couples still won't be eligible.
12. In November 2015, The Social Security Advisory Committee identified that eligibility for BSP is 'inconsistent with other benefits, including Universal Credit, and appears incompatible with the Family Test'⁸. In January 2016, the Belfast High Court ruled that Siobhan McLaughlin, a mother who had been living with her partner of 23 years should be able to claim benefits on behalf of their children together. This was overturned in December 2016 in the Appeal Court, but is likely to be taken up to the Supreme Court. In March 2016, The Work and Pensions Select Committee said the policy 'unfairly penalises the bereaved children of cohabittees' and recommended the Government should extend eligibility to these families.

How much would it cost?

13. We believe that around 21% more parents would be eligible for bereavement benefits if the rules were extended to cohabiting couples who had dependent children together. So the costs would go up by about the same percentage. Under the new system of BSP to be introduced in April 2017, this would cost around £21.6 million a year.

Would it be difficult to administer?

14. During passage of the Pensions Bill, which introduced the new BSP, the Minister of State for Pensions raised the practical difficulties of determining the nature of a partnership, saying how uncomfortable it would be to ask intrusive questions about a relationship, shortly after one person had died. However, many of the administrative processes around a death could be seen as intrusive, but are recognised as being necessary, and it seems unlikely that families would find making a claim for bereavement benefits any different (particularly if it was going to make a significant financial difference to the family).
15. While there are undoubtedly difficulties in establishing the nature of a cohabiting relationship, these aren't insurmountable. The tax credit and means-tested benefit systems are already set up to manage cohabiting couple claims: and many couples will have had such a joint claim before one of them died. The Armed Forces Pensions Scheme successfully uses a definition of 'eligible partner' to determine who can receive a pension.

We strongly recommend that eligibility for bereavement benefits should be extended to unmarried, cohabiting partners with dependent children with the person who died.

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The Childhood Bereavement Network is the national hub for those working with children and young people before or after the death of someone important in their lives. We underpin our 250+ members' work with essential representation and support, advocating for bereaved children's needs and helping professionals access the information and support they need to develop high quality services. We are hosted by the National Children's Bureau www.childhoodbereavementnetwork.org.uk

⁶ <http://lawcommission.justice.gov.uk/areas/intestacy-and-family-provision-claims-on-death.htm>

⁷ The percentage of couples with children who are cohabiting rather than married rose from 13% in 1999 to 21% in 2015 <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tc%3A77-401852>

⁸ Social Security Advisory Committee (2015) *Bereavement Benefit Reform: Occasional Paper No.16* <https://www.gov.uk/government/publications/ssac-occasional-paper-16-bereavement-benefit-reform> p33