



Department
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All MPs

28 February 2023

Dear Colleague,

Bereavement Benefits (Remedial) Order 2023: Update

I wrote to you on 8 February 2023 informing you that the Bereavement Benefits (Remedial) Order 2023 would come into force on 9 February 2023. This means cohabittees who are entitled to Bereavement Support Payment, or its predecessor, Widowed Parents Allowance on, or from, 30 August 2018 can now access the relevant bereavement benefit.

Regrettably, there was an error in the section of the letter concerning the claim time limit for Bereavement Support Payment, where references to 8 and 9 November **2025** should have read 8 and 9 November **2024**.

I am sorry for any confusion this may have caused. For clarity and ease of reference, please find attached the original letter with the revised dates in bold. This ensures the wording reflects our policy intent, which is that where a death occurred before 9 February 2023, a claim must be made within 21 months of the Order coming into force for any Bereavement Support Payment to be payable.

I hope this letter is helpful in clarifying the claim dates alongside reiterating how eligible claimants can benefit from this change.

I am placing a copy of this letter in the House library.

Mims Davies MP
Minister for Social Mobility, Youth and Progression



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08 February 2023

Dear Colleague,

Bereavement Benefits (Remedial) Order 2023

I am pleased to inform you that the Bereavement Benefits (Remedial) Order 2023 will come into effect on 9 February. This will mean for the first-time bereaved cohabittees with children will be able to access Bereavement Support Payment, and its predecessor, Widowed Parent's Allowance. This change will benefit thousands of families with dependent children.

Background

Widowed Parent's Allowance was introduced in 2001 to replace Widowed Mother's Allowance. It is payable to working aged people who were bereaved before 6 April 2017 and who were entitled to Child Benefit for at least one child (or pregnant) on the date of death. It can be paid for as long as the claimant holds an entitlement to Child Benefit (up to 20 years in some cases).

Bereavement Support Payment came into force on 6 April 2017, replacing the previous suite of bereavement benefits which included Widowed Parent's Allowance. Bereavement Support Payment supports bereaved working age people with the immediate costs associated with the death of their spouse or civil partner.

Both Widowed Parent's Allowance and Bereavement Support Payment can currently only be paid to those who were in a legal union (marriage or civil partnership) with the deceased on the date of death.

Court judgments

On 30 August 2018, the Supreme Court ruled that the primary legislation governing Widowed Parent's Allowance is incompatible with the European Convention on Human Rights (ECHR). On 7 February 2020, the High Court similarly ruled that the primary legislation governing Bereavement Support Payment is also incompatible with the ECHR. In both cases the courts found that restricting eligibility to people in a legal union (and thus excluding cohabittees) unfairly discriminates between children on the grounds of the legal status of their parents' relationship.

As a result of these cases, this Order will extend eligibility for Widowed Parent's Allowance and the higher rate of Bereavement Support Payment to surviving partners with dependent children who were living with their deceased partner as if they were married or in a civil partnership on the date of death. This Order will apply to those who would have been entitled to either of these benefits on, or from, 30 August 2018.

I have set out some further details of these changes below, which I hope you will find helpful.

Further details:

Pregnant cohabittees

This includes partners who are or were pregnant on the date of their partner's death.

Will there be a qualifying period of cohabitation?

There will be no qualifying period of cohabitation.

Claim time limits

For Bereavement Support Payment, where a claimant's partner died before 30 August 2018, we will make a part payment, and no initial lump sum will be payable. For Bereavement Support Payment, where the death occurred before 9 February 2023:

- If the claim is received by 8 February 2024, the claimant will receive the full amount due to them;
- If the claim is received between 9 February 2024 and **8 November 2024**, no initial lump sum will be payable, but the claimant will get up to 3 backdated monthly payments, plus any remaining monthly payments due;
- if a claim is made from **9 November 2024** no Bereavement Support Payment will be payable.

For Bereavement Support Payment, where the death occurred from 9 February 2023, the usual claim time limits will apply, which means that claims need to be made within 12 months for the initial lump sum and three months for each instalment.

Claimants will be eligible for Widowed Parent's Allowance where their partner died before 6 April 2017, and they continued to meet the entitlement conditions on 30 August 2018. They too must claim by 8 February 2024. They may also be entitled to ongoing payments if they continue to meet the Widowed Parent's Allowance eligibility criteria at the point of claim.

Where there is more than one potential claimant

Extending these benefits to cohabiting partners means there may be cases where more than one person claims for the same death.

This could apply in cases of people dividing their time between two households or where there is a separated spouse who no longer lives with the deceased.

In these cases, we will pay just once per death, prioritising who was living with the claimant on the date of death. Where there are claims from different addresses, entitlement would be established as part of the normal decision-making process.

In some cases, more than one potential claimant may have been living with the deceased on the date of death. Here, entitlement will be decided according to a hierarchy, intended to reflect the most established relationship as this person would usually bear the majority of the bereavement costs. Should this leave more than one potential claimant, the Secretary of State would determine who is entitled.

Transitional protection will ensure those already in receipt of Widowed Parent's Allowance or Bereavement Support Payment before the date this Order comes into force do not lose their entitlement for the duration of their award.

Effect on income-related benefits

Widowed Parent's Allowance is treated as income for the purposes of income-related benefits such as Universal Credit and is assessed at the point of award. Bereavement Support Payment is treated as capital and disregarded for 12 months.

This Order provides for all retrospective Widowed Parent's Allowance payments up to the date of claim to be treated as capital and disregarded for 12 months or 52 weeks for the purposes of income-related benefits. This ensures that claimants will not lose any existing entitlement to income-related or passported benefits, such as Free School Meals, as a result of receiving a retrospective award.

This Order also ensures there is a disregard for the same period for retrospective Bereavement Support Payment awards. The usual rules will apply to future Bereavement Support Payment and Widowed Parent's Allowance entitlements.

Effect on income tax

There will be no changes for the treatment of income tax; Bereavement Support Payment is already tax-free and Widowed Parent's Allowance will be taxed according to the period of entitlement as per the existing rules. We will ensure that Widowed Parent's Allowance claimants are aware that they may incur an income tax liability.

Effect on tax credits

Widowed Parent's Allowance will be treated as income for tax credit purposes as is common practice for social security benefits. It will be assessed in the year of payment rather than entitlement so no adjustments to past years will be needed.

We have inserted text into the Widowed Parent's Allowance award letters to advise customers of this, and to ask that they inform HMRC of any Widowed Parent's Allowance lump sum payment received. The payment of Bereavement Support Payment does not affect a person's tax credit entitlement.

Making a claim

For Bereavement Support Payment, claimants can make a claim online via GOV.UK, by phone (ringing the DWP Bereavement service number and providing details), or

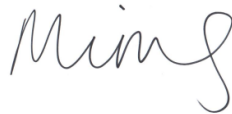
via a paper claim downloadable from GOV.UK, or obtainable from the Bereavement Service number.

As Widowed Parent's Allowance has now been replaced by Bereavement Support Payment (for deaths after April 2017), it is not possible to claim online. Claims for Widowed Parent's Allowance will be processed by paper, with applications downloadable via gov.uk or by calling the bereavement service number for a form to be sent in the post. In both cases the customer must complete the form manually and submit by post.

Anyone who was refused Bereavement Support Payment or Widowed Parent's Allowance before the start date of the Order will need to make a new claim as this will be a new entitlement.

I hope this letter is helpful in explaining some of the detail on how eligible claimants can benefit from this change.

The Minister for Lords, Viscount Younger of Leckie who has overall responsibility for this policy area has also written to Peers.

A handwritten signature in cursive script, appearing to read 'Mims', is centered on the page.

Mims Davies MP
Minister for Social Mobility, Youth and Progression