

# Bereavement Benefit changes: frequently asked questions

Updated 9 February 2024

## Introduction

- The Bereavement Benefits (Remedial) Order extended eligibility for bereavement benefits to cohabiting couples with children, from 9 February 2023, and allowed people to make retrospective claims back to 30 August 2018 within a certain window. The date of 30 August 2018 was chosen because that was the date the Supreme Court ruled that the eligibility criteria were discriminatory.
- These cohabiting partner died between 6 April 2017 and 8 February 2023, who will be making a retrospective claim for Bereavement Support Payment.
  - If your partner died before 6 April 2017, unfortunately the window for making a retrospective claim has closed.
  - If your partner died after 8 February 2023, visit the [gov.uk](https://www.gov.uk) website for information about making a claim.
- These FAQs set out our best understanding of the current situation. We will update them if we get more details.
- These FAQs are for general information and are not legal advice. If you need more details on your own situation, please contact an adviser. We are not able to offer direct advice to parents. You can get advice from your local [Citizens Advice](#) or find an adviser via the [Turn2Us](#) tool.
- If you are working with an adviser, you can recommend they read [this article](#) by Child Poverty Action Group.
- You can also contact the Department for Work and Pensions (DWP) [Bereavement Service Helpline](#) 0800 151 2012 (Monday to Friday 8am to 6pm)
- For more information, visit <https://childhoodbereavementnetwork.org.uk/cohabiting>

After 8 February 2024, the maximum amount you can receive in a retrospective claim for Bereavement Support Payment becomes less each month. If you want to make a claim, you should do so as soon as possible. You will not receive anything if you claim after 8 November 2024.

## Frequently asked questions

### Timing of partner's death

#### **My partner died several years ago. Can I still put in a retrospective claim?**

Yes, provided your partner died on or after 6 April 2017, and you met all the eligibility criteria for BSP when they died.

### Children

#### **I did not have dependent children when my partner died, and I was not pregnant. Can I make a claim?**

No. The new eligibility for cohabiting couples only relates to people with dependent children or who were pregnant when their partner died.

#### **My partner died in September 2018 and I stopped being entitled to Child Benefit in December 2018. Can I make a claim?**

Yes, provided you met all the eligibility criteria at the point at which your partner died, it does not matter if you stop being entitled to Child Benefit before the 18 months of payments end.

#### **I didn't realise I was entitled to Child Benefit (CB) after my partner died and I haven't claimed. Should I still claim now?**

Yes, if you would still be entitled to CB now. CB can be backdated for 3 months. You should claim for a child who was residing with you or your late partner immediately before they died. You can read more about making a Child Benefit claim here: <https://www.gov.uk/child-benefit>. This should not limit any retrospective payments of BSP you would be entitled to - if it does, get advice.

#### **My partner is not on my child's birth certificate. Can I still claim?**

Yes, as long as you meet the other eligibility criteria. BSP can be paid if you were eligible for Child Benefit or were pregnant when your partner died, or you became eligible for Child Benefit for a child who was living with you both immediately before your partner died.

#### **My income is over £50k so I am subject to the High Income Child Benefit Charge. Can I still claim BSP?**

Yes, provided you have claimed Child Benefit then, provided you meet all of the other criteria, you will be entitled to receive BSP.

If your adjusted net income is more than £50,000 and you are subject to the High Income Child Benefit Charge then this will not affect your entitlement to BSP – even if you end up effectively repaying the entire Child Benefit entitlement under the charge. Equally, your entitlement to BSP will not be affected if you have claimed Child Benefit but have specifically elected not to receive payments. In this case, as long as there is a Child Benefit claim, then your entitlement to BSP is protected.

If you have not claimed Child Benefit, you will need to do so before you can make a claim for BSP. Child Benefit can only be backdated for three months so you should do this as soon as

possible. You can read more about making a Child Benefit claim here:

<https://www.gov.uk/child-benefit>

**I am a grandparent bringing up my grandchildren. My partner died and I am under State Pension Age. Can I claim?**

Provided you meet the other requirements (i.e. your partner had paid enough National Insurance contributions) and you are claiming Child Benefit for the children, you should be able to claim.

## **Relationships and living arrangements**

**My partner and I had only been living together for a few months when he died. I was pregnant at the time. Can I make a claim?**

Yes, as long as you met all the other criteria. There is no minimum period of cohabitation for BSP.

**My partner and I were living together and had a child. We later separated and my partner moved out – our child lived mostly lived with me and I claimed Child Benefit. My ex-partner died some years later. Can I make a claim?**

No. To be entitled under the new rules, you had to be "living together as though you were married" when your partner died to claim BSP.

**I was living with my partner when she died and we had children together. I subsequently married a new partner. Can I make a claim?**

If you met the eligibility criteria for BSP at the time of your partner's death, you may be eligible for back payments even if you later moved in with or married a new partner.

**I was living with my partner when he died and we had a child together. He was still married to (but not living with) his wife, who also has a child. Will his wife and I both be entitled to support?**

It depends on the timing. If your partner died and his wife was already claiming BSP before 9 February 2023, and you put in a successful claim now (i.e. you are the rightful or entitled claimant under the hierarchy described below), as long as you both met the entitlement conditions before 9 February 2023, her claim will continue, and yours will start (she will get 'transitional protection').

If your partner died on or after 9 February 2023 then DWP will only pay one claim, prioritising the person who was living with your partner when he died. Where more than one potential claimant were living at the same address with the person who died, the DWP will use a hierarchy to decide who is entitled.

**I am a grandparent (under State Pension age). My daughter was a solo parent and died last year. I am bringing up her children, and claiming Child Benefit for them. Can I claim?**

No, as it is only the death of a partner that means someone might be entitled to bereavement benefits. You might be entitled to Guardian's Allowance paid on top of Child Benefit: check here <https://www.gov.uk/guardians-allowance>

## National Insurance contributions

### **How much National Insurance did my partner need to pay for me to be entitled to BSP?**

Your partner must have actually paid sufficient Class 1 or 2 National Insurance contributions for at least 25 weeks in any one tax year since 1975.

If your partner died because of an accident at work or a disease caused by work, you will be able to claim regardless of their National Insurance contributions.

### **My partner was too sick to work and make National Insurance contributions. Can I claim?**

The recent changes to the eligibility criteria for cohabiting parents do not change the eligibility criteria about National Insurance contributions. However, there is a separate campaign to extend eligibility to people whose partner was not able to make NI contributions because of illness or disability. Seek benefits advice if you are in this position, and ask your adviser to look into the cases *R (Jwanczuk) v. Secretary of State for Work and Pensions* [2022] EWHC 2298 (Admin) and *O'Donnell v. Department for Communities* [2020] NICA 36.

## Other eligibility criteria

### **Do I need to be on a low income to claim?**

No. BSP is not means-tested, so your other income does not matter.

## Making a claim

### **I appealed refusal of my claim and my appeal is 'stayed' behind the Remedial Order. Will I be contacted by the court and told what to do?**

No, you will need to put in a new claim.

### **How will I be expected to prove I was living with my partner?**

DWP will use their existing IT systems to verify the information you provide as part of your claim. That could be, for example, the records they hold about any joint benefit claims that you and your partner had. If they cannot confirm the information you provide, you will need to provide two forms of documentary evidence, in line with that currently accepted by DWP for proof of address. If you are not able to provide documents and the claim is retrospective, DWP will take the customer declaration on the telephone.

### **I need my partner's National Insurance number to make a claim. Where can I find this?**

You may be able to find this on an old payslip, P45 or correspondence from a pension scheme.

## Income tax liability, tax credits and benefits

### **How will a back payment affect my income tax, tax credits or benefits?**

The back payment of BSP will be treated like ongoing BSP. It will not be taxed and will not affect your tax credits. It will not immediately affect the Benefit Cap or Universal Credit or legacy means-tested benefits: it will be disregarded for a year.

## Amount of retrospective payment

### How much back payment will I be entitled to?

Usually, higher rate Bereavement Support Payment is paid as an initial payment and 18 monthly instalments. The first of those monthly instalments is payable one month after your partner's death.

If you are making a retrospective claim after 8 February 2024, you won't get the initial payment, but you may be able to get some monthly payments. How many you get depends on both the date your partner died, and how far after 8 February 2024 you claim. We can only give a broad idea of how much you might get; you will know the exact amount once you claim. The final deadline for all backdated claims is midnight on 8 November 2024.

- If your partner died **before** 30 August 2018, you can get a broad idea of what you may be entitled to by first counting the months from 30 August 2018 to when the 18-month period ends starting from the date of your partner's death. Then you count the months from 9 February 2023 to the date that you claimed and deduct that number from 21. The number of monthly payments you could get is the lower of these two figures.
- If your partner died **between 30 August 2018 and 9 February 2023**, if you claim before 9 August 2024, you can get 3 backdated monthly payments, plus any monthly payments due between the date you claim up to and including 8th August 2024.

The 18-month payment period for backdated BSP claims ends on 8 August 2024. For claims after this date, you may still receive some backdated monthly payments but it's likely this will be fewer than 3. The closer to 9 November 2024 you claim, the fewer payments you'll receive. The final deadline for claims is midnight on 8 November 2024.

## Making a claim

### How do I make a claim?

Visit <https://www.gov.uk/bereavement-support-payment>