

**Baroness Stedman-Scott
Minister for Work and Pensions
The Department for Work and Pensions**

By email

7 July 2022

Dear Baroness Stedman-Scott,

The Bereavement Benefits (Remedial Order)

We are writing jointly as the Chairs of the Joint Committee on Human Rights and the Work and Pensions Committee. Both Committees are concerned at delays in the resolution of discrimination in the provision of bereavement benefits.

Discrimination against cohabiting couples and their children in the provision of widowed parent's allowance (WPA) was first identified and declared as incompatible with human rights by the High Court in February 2016 (in a decision that was upheld by the Supreme Court in 2018), while discrimination on the same grounds in the provision of higher rate bereavement support payment (BSP) was declared incompatible by the High Court in February 2020. These declarations did not alter the eligibility for WPA or BSP. It was therefore necessary for the law to be changed to remedy the incompatibilities. A proposed draft remedial order designed to achieve this was finally laid before Parliament on 15 July 2021.

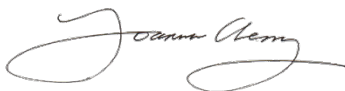
In accordance with its Standing Orders and the timeframe for the non-urgent procedure set down in the Human Rights Act, the Joint Committee on Human Rights published a report on the proposed draft remedial order on 12 November 2021.¹ This report largely welcomed the proposed order, although some relatively minor amendments were proposed to ensure compliance with human rights, including amending the order to provide that pregnant cohabiting partners would be treated the same as pregnant spouses and civil partners and amending the order to ensure that individuals who have already had claims refused are not prevented from benefiting from its changes.

¹ [Eighth Report - Proposal for a draft Bereavement Benefits \(Remedial\) Order 2021: discrimination against cohabiting partners](#), HC 594 / HL 91

Once the JCHR report had been considered the next step in the process was for the remedial order to be laid before Parliament for a further period of 60 days, after which it will be debated in both Houses. Almost eight months have now passed since the publication of the JCHR report, with no sign of the remedial order being laid. This is too long. In response to a question raised by Chris Stephens MP, a member of the Work and Pensions Committee, you wrote on 10 May 2022 explaining that you were unable to say when the remedial order would be laid before Parliament for a second time. You explained that this was “due to the complexity of the points raised [in the JCHR Report] and the need to give them careful consideration.” We are disappointed that the department’s delays are being blamed on the complexity of the proposals made by the JCHR.

Until changes are made to the law, it continues to discriminate against surviving cohabiting partners and their dependent children in violation of their rights under the European Convention on Human Rights. They continue to be denied access to the benefits available to surviving spouses and civil partners, several years after the discrimination was recognised by the courts and more than a year after the remedial order was first laid. It is imperative that change is made promptly to ensure that the number of victims of human rights infringements are minimised. For this reason, the remedial order must be laid for a second time before Parliament goes into summer recess. Please confirm that you will meet this deadline.

Yours sincerely,



Joanna Cherry QC MP
Acting Chair of the Joint
Committee on Human Rights



Rt Hon Sir Stephen Timms MP
Chair of the Work and Pensions
Committee