

**BEIS Carer's leave
consultation
response**

Executive Summary

Carers' need for additional rights to paid leave has been brought into the spotlight by Covid-19. The number of workers with caring responsibilities has increased sharply during the pandemic.

Women are disproportionately impacted by caring responsibilities, doing three times more unpaid care work than men.¹ Far too many women are forced to reduce hours, or even give up paid work completely when they take on caring responsibilities. This negatively impacts women's progression in the workplace, widens the gender pay gap and damages decades of progress towards gender equality at work. Despite the clear benefits for both staff and employers, not enough workplaces have the organisational culture and policies in place, such as promotion of flexible working, that mean carers do not feel forced to make such sacrifices.

We are calling on the government to:

- introduce 10 days' paid carer's leave for all workers from their first day in the job
- ensure the notice period required to take leave is proportionate to the amount of leave being taken, with no notice required for leave that is of three days or less
- allow carers to self-certify (for a period of up to 10 days) to take the leave
- pay carer's leave at the rate of the Real Living Wage rate, funded by the state
- support workers to balance work and caring commitments by giving them the right to work flexibly from their first day in the job

Introduction

The TUC is the voice of Britain at work. We represent more than 5.5 million working people in 48 unions across the economy. We campaign for more and better jobs and a better working life for everyone, and we support trade unions to grow and thrive.

We welcome the opportunity to respond to the Department for Business, Enterprise and Industrial Strategy's carer's leave consultation.

¹ TUC (2020) Forced Out: The cost of getting childcare wrong

Currently 13.6 million unpaid carers², the vast majority of whom are women, undertake unpaid care. Recent research by Carers UK has revealed that 4.5 million people have become unpaid carers as a result of the Covid-19 pandemic.

Carers UK³ has reported that people providing unpaid care since the start of the outbreak were more likely to be in paid work (62 per cent were working) compared with those who were already providing care pre-outbreak (48 per cent were working).

There are 2.8 million extra workers juggling work and unpaid care since the start of outbreak. One in ten workers has started providing unpaid care since the outbreak. This brings the estimated number of unpaid carers who are also in paid work to over 7 million across the UK as previous research found that there were already 4.9 million people juggling work and unpaid care⁴.

In total 26 per cent of all workers are combining work and unpaid care – one in four workers.

But despite being worth around £132 billion a year⁵ to the economy, unpaid care is still not given the recognition it deserves from either government or employers.

Funding for adult social care is inadequate. This significantly limits the ability of the sector both to deliver effective care for those who need it now, and to meet the projected increase of people who will need care in the future.

Local government resilience has been hugely undermined by government cuts since 2010, relying on inadequate and short-term cash injections rather than a sustainable funding settlement that can deliver high-quality care, meet rising demand and limit the recruitment and retention crisis by offering the workforce better pay.

This inadequate funding has forced councils to narrow the criteria individuals must meet to access publicly funded care. This has meant an increase in “unmet” care needs.

The TUC rejects the proposal that carers leave should be unpaid. For many this would be a right in name only as they would be unable to afford to use it.

Paid carers’ leave is only a part of what is needed to allow workers to balance employment and caring commitments. From their first day in a job, a worker should have the right to 10 day’s paid parental leave and have the right to work flexibly.

In this submission we look at the issues facing carers and evidence from trade unions, before responding to the specific consultation questions.

² [Carers UK \(2020\) Carers Week 2020 Research Report: The rise in the number of unpaid carers during the coronavirus \(COVID-19\) outbreak, available at https://www.carersuk.org/images/CarersWeek2020/CW_2020_Research_Report_WEB.pdf](https://www.carersuk.org/images/CarersWeek2020/CW_2020_Research_Report_WEB.pdf)

³ Ibid

⁴ Ibid

⁵ Carers UK <https://www.carersuk.org/news-and-campaigns/news/unpaid-carers-save-the-uk-132-billion-a-year-the-cost-of-a-second-nhs>

The role of trade unions in protecting carers' rights

Statutory rights are crucial for carers.

But there should also be recognition and enhancing of the role of trade unions in the workplace in putting in place policies governing flexible working, parental and carers' rights.

A recent TUC report on collective bargaining⁶ found that unionised workplaces have more work-life balance policies in place than comparable non-unionised workplaces.

In workplaces with union recognition employers are more likely to recognise their responsibility for addressing the work-life balance of their staff, and less likely to say it is the responsibility of the individual staff member.

A crucial role is played by equality reps who raise awareness of equality issues such as flexible working, parental and carers' rights.

They can identify problems early and ensure they are dealt with effectively rather than through costly and time-consuming legal cases.

Equality reps can help to develop collective policies and practices that will enable the organisation to reduce turnover and absenteeism.

Granting equality reps statutory recognition and paid time off for union duties would allow them to be even more effective within workplaces.

Insecure work

We are seeing casualised and precarious work pose particular problems for carers.

Insecure work has a huge impact on those who endure it.

Black workers, women and disabled workers are all overrepresented in insecure work. These workers are bearing a disproportionate burden in keeping the country running during the current crisis. These workers are forced to work without many of the most basic employment protections

Women are more vulnerable to economic hardship during this crisis than men. Women are the majority of those providing unpaid care. They are more likely to be employed on insecure and zero-hours contracts than men, particularly Black and minority ethnic (BME) and migrant women, and to be working part-time. They miss out on working parents and carers rights such as flexible working, unpaid parental leave and time off for family and dependents.

Women's caring roles often affect their participation in paid work and reduce their lifetime earnings, with wider gender equality implications.⁷ In a survey, 16 per cent of parents of disabled children said they had reduced their hours at work⁸. A survey of woman trade union members aged 50 and over who worked part time found that 16 per cent did this to allow them to care for a child, and 15 per cent to allow them to care for an adult. A poll by

⁶ <https://www.tuc.org.uk/StrongerVoiceatWork>

⁷ https://www.carersuk.org/images/CarersWeek2020/CW_2020_Research_Report_WEB.pdf

⁸ CONTACT 2017

trade union UNISON of its members⁹ showed that working part time was a common response to having caring responsibilities. Two fifths of those with experience of caring reported that they had altered their working pattern (39 per cent) or reduced their working hours (43 per cent).

Self-employed workers with caring responsibilities also have to reduce their hours. Age UK¹⁰ analysis shows that self-employed people with caring responsibilities on average reduce their working time by 1.8 hours per week, with self-employed men and women typically cutting two and 1.6 hours per week respectively.

Equity, the entertainment union, has highlighted that the particular challenges faced by those in the entertainment industry where individual performers and creative workers on highly insecure contracts feel they are vulnerable to exclusion from employment opportunities if they make demands in favour of improving work life balance.

Recent research by Parents in the Performing Arts¹¹ identified that the biggest single factor for survey participants leaving the performing arts is because current working practices are incompatible with, and too challenging to combine with, other roles in life. Of those who took part in the survey, but had left the industry, 43 per cent identified caring responsibilities as the main contributing factor followed by low income and financial instability (40 per cent).

Working in performing arts is precarious, one in three¹² workers do not have a formal contract in place. Parents and carers are less likely to be in full-time employment (29 per cent compared to 45 per cent for those without caring responsibilities) and more likely to work part time (17 per cent versus 11 per cent) in order to balance work and care commitments. They sacrifice job security and sufficient employment, as they are more likely to work freelance (58 per cent) compared to those without caring responsibilities (48 per cent).

Equity¹³ also found that caring sacrifices were even more pronounced for women: more than eight out of 10 women with caring responsibilities indicated that they either worked part-time or freelance, compared to 59 per cent of other female workers without caring responsibilities. In contrast, the employment structure for men with caring responsibilities remained comparable to men without caring responsibilities.

Some 76 per cent of parents and carers had to turn down work and opportunities for work because of childcare responsibilities (even higher for women at 80 per cent); 68 per cent were unable to attend auditions and other opportunities. More freelance workers with caring responsibilities have had to turn down work (85 per cent) than other workers. Yet, 40

⁹ <https://www.familyandchildcaretrust.org/sites/default/files/Holding%20on%20or%20moving%20up.pdf>

¹⁰ Age UK (2016) Walking the tightrope The challenges of combining work and care in later life, available at https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/active-communities/rb_july16_walking_the_tightrope.pdf

¹¹ PIPA (2019) Balancing Act: PIPA's survey into the impact of caring responsibilities on career progression in the performing art, available at <http://www.pipacampaign.com/wp-content/uploads/2019/04/BA-Final.pdf>

¹² Ibid

¹³ Ibid

per cent of parents and carers would prefer to boost their income by working an additional two days per week.

These findings identify that parents and carers are under-employed yet given adequate support would be willing and able to work more.

To protect those in insecure work, any new rights for carers must be granted to all workers, not just those classified as employees.

The public sector equality duty was specifically introduced to ensure that proper consideration was given to the impact of policies on people from groups protected by the Equality Act.

The TUC believes that the government needs to review the disproportionate impact that limiting carer's leave to employees would have on groups with protected characteristics when it conducts its equality impact assessment of this policy proposal.

Government must also ban zero-hours contracts, tackle false self-employment, and guarantee all workers day-one employment rights.

Prior to Covid-19

An estimated 9.1 million¹⁴ or one in every six adults were providing unpaid care before the crisis. This is 17 per cent of the general public.

Profile of the people who were already caring before the coronavirus outbreak:

- 57 per cent are women and 43 per cent were men.
- Nearly half (48 per cent) were juggling paid work with their unpaid care. 34 per cent were in full-time work and 15 per cent were in part-time work.
- 4 per cent were full time students.
- A quarter (25 per cent) were a parent or guardian for someone under 18. Many of them were sandwich carers; caring for an older, ill or disabled person while also being a parent or guardian of someone under 18.
- Carers were represented in all age groups, although the majority are over 45 (23 per cent are over 65, 23 per cent are 55-64, 22% are 45-54, 16 per cent are 35-44, 9 per cent are 25-34, and 7 per cent are 18-24.)

Impact of Covid-19

Carers' need for additional rights to paid leave has been brought into the spotlight by Covid-19.

¹⁴ https://www.carersuk.org/images/CarersWeek2020/CW_2020_Research_Report_WEB.pdf

Recent research by [Carers UK](#)¹⁵ showed an estimated 4.5 million people in the UK have become unpaid carers as a result of the Covid-19 pandemic.

This is on top of the 9.1 million unpaid carers who were already caring before the outbreak, bringing the total to 13.6 million.

Some 2.7 million women and 1.8 million men have started caring for relatives who are older, disabled or living with a physical or mental illness.

This represents nearly a 50 per cent increase in the number of unpaid carers since the Covid-19 crisis began. An estimated 26 per cent of the UK adult population is now providing unpaid care to an older, disabled or ill relative or friend – that is equivalent to one in four adults.

The combination of narrowing eligibility thresholds to access publicly-funded care and an ageing population with increasingly complex needs places significant pressure on unpaid carers, who often have care needs of their own – around two million of the UK's carers are aged 65 or over.¹⁶

Estimates of the value of informal care range from £58bn – £100bn per year.¹⁷ Despite the Care Act 2014 explicitly recognising the importance of carers' own health and wellbeing, the number of carers in England benefiting from respite or support for the person they care for dropped 20.7 per cent between 2014/15 and 2017/18.¹⁸ This overreliance on informal care is taking a toll on carers, and is not a sustainable way for the government to run such a critical part of the country's welfare state.

Carers in employment

A Carers UK¹⁹ report also found people who have started providing unpaid care since the start of the outbreak were more likely to be in paid work (62 per cent were working). This compares to pre-outbreak figures which show that fewer than half (48 per cent) of carers were in paid work.

There are 2.8 million extra workers juggling work and unpaid care since the start of outbreak. One in ten workers has started providing unpaid care since the outbreak. This brings the estimated number of unpaid carers who are also in paid work to over 7 million across the UK (compared to 4.9 million before the pandemic).

In total, more than one in four (26 per cent) of all workers are combining work and unpaid care. 16 per cent of these said they were worried they might have to reduce their paid working hours, leave work or stop studying as a result of their caring role.

¹⁵ https://www.carersuk.org/images/CarersWeek2020/CW_2020_Research_Report_WEB.pdf

¹⁶ Age UK. Health and care of older people in England 2019. July 2019

¹⁷ Ibid.

¹⁸ NHS Digital 2018: SALT, Community Care Statistics, Social Services Activity, England

¹⁹ Carers UK (2020) Carers Week 2020

Recent research by Centre for International Research on Care, Labour and Equalities and Carers UK²⁰ showed that more than 100,000 people who carry out unpaid care for older or disabled relatives have to use food banks to get by. Almost 229,000 unpaid carers have had someone in their household go hungry during lockdown.

The report revealed that during the pandemic, carers - especially women and those over 45 are reporting more hunger in their households, and are twice as likely to use food banks, compared with other people. Their mental wellbeing has also deteriorated since the pandemic.

Some 61 per cent thought that the negative impact that caring has on carers' ability to do paid work was a challenge they faced. Juggling work and unpaid care can be a significant issue for carers, forcing many to stop working. Previous research suggests that nearly 2.6 million people have given up work to care, equivalent to 600 people a day giving up work to care.²¹ Unpaid carers are more likely to be in poor health and 1.2 million unpaid carers are in poverty.

The social care sector is facing significant problems which puts additional pressure on unpaid carers. A critical lack of PPE and testing of social care staff and service users has allowed coronavirus to sweep through social care.²² Decades of outsourcing means the market is hugely fragmented, with local authorities currently commissioning to over 20,000 different providers. This drives down costs below sustainable levels, encourages short-term contracts that may not deliver the care a person needs and removes democratic accountability.

The coronavirus pandemic has now added significant additional pressure to local government finances. The impact of social distancing measures, and health and social care staff pressures and worries about the virus, have also resulted in many carers having to provide more hours of care.²³

Existing employment rights and practices

1) *Have you or your employees used any of the below options to take time out of work to fulfil caring responsibilities? Please select all that apply.*

- *Yes, annual leave*
- *Yes, formal flexible working (meaning a change to contracted hours or location of work)*
- *Yes, time off for dependants (the statutory right to leave in emergencies)*
- *Yes, unpaid parental leave*
- *Yes, informal flexible working (such as an afternoon or morning off or occasional homeworking)*

²¹ <https://www.carersuk.org/news-and-campaigns/news/more-than-600-people-quit-work-to-look-after-older-and-disabled-relatives-every-day>

²² <https://www.tuc.org.uk/blogs/five-things-social-care-workers-need-wont-be-fixed-badge>

²³ https://www.carersuk.org/images/CarersWeek2020/CW_2020_Research_Report_WEB.pdf

- Yes, other (such as special/compassionate leave granted by the employer)
- No

Please comment on your experience of these existing rights and practices in relation to care, including what specific caring needs the leave was used for.

Trade unions have told us about the challenges members face accessing the following employment rights and the negative impact this has on their work life balance.

Annual leave

Many workers face a lack of flexibility when taking their annual leave.

For example, the National Education Union (NEU) reports that generally, education staff are required to take their entitlement to annual leave during school and college closure periods. Consequently, they have reduced flexibility if they need time off to care for someone during term time. This means that when they need time off for dependents in emergencies, they will seek parental leave if they have sufficient time to give notice.

Only in exceptional cases, where NEU officers have negotiated beneficial local contractual arrangements or policy will they access to special leave or compassionate leave. Since requests for flexible working are so often refused or not granted in full in the education sector, the NEU reports that teachers and support staff are resigning where their employer cannot or will not accommodate their needs as carers. The majority of those resigning in these circumstances are women. A number of these are then seeking employment as agency staff, which costs schools more and means women miss out on the rights and protections securely employed teachers get.

Flexible working

Women's pay and career progression opportunities are often held back by the tensions between caring responsibilities and current ways of organising work and caring responsibilities. Women are often forced to withdraw from full-time employment after having children and enter low paid, part-time work or leave the workforce altogether in order to balance work and care.²⁴ With life expectancy increasing and women having their first child at an older age, around 3% of the UK population has caring responsibilities for both adults and children at the same time. This is equivalent to more than 1.3 million people.²⁵ It is therefore important to consider the challenges for those caring for children alongside those providing care for relatives. That is why alongside carers leave, the TUC believes that action is necessary to strengthen rights to parental leave and investment in affordable accessible childcare.

²⁴TUC (2019) Good work plan: Proposals to better support families

²⁵ONS (2019) People, population and community, available at <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/articles/morethanoneinfoursandwichcarersreportsymptomsofmentallillhealth/2019-01-14>

While part-time working is often positioned as an active choice, in truth it is often a necessity driven by the lack of quality flexible jobs and affordable, flexible childcare. These practical challenges have intensified for mums since the crisis began, with huge concerns about the sustainability of formal childcare provision in the coming months. Prior to Covid-19:

- one in three requests for flexible work were rejected by an employer²⁶
- one in five parents said childcare was not flexible enough to meet their needs²⁷
- 87 per cent of men in paid work were full-time workers compared to 59 percent of women²⁸

The lack of consideration of childcare in the government's exit strategy from coronavirus has left working parents, particularly mums, in an extremely difficult position. Many working parents will be asked to return to work before there is the childcare to enable them to do so and without the necessary rights to protect their jobs and income.²⁹

In early years childcare settings, providers have been asked to welcome back all children. However, government guidance states that "it may be necessary to introduce a temporary cap on numbers to ensure that safety is prioritised".³⁰ These restrictions will place even more financial strain on childcare providers, who were already struggling after years of underfunding, and create a squeeze on childcare places as parents return to work. Some nurseries have already reported that while they will open, it will be on a significantly reduced hours basis.

Flexibility at work can take lots of different forms, including the right to predictable hours, working from home, job-sharing, compressed hours and term time working. Currently, employees have the right to request flexible working arrangements, as long as they have been with their employer for at least 26 weeks.

However, analysis by the TUC shows this right is limited and not fit for purpose³¹.

- Flexi-time is unavailable to over half (58 per cent) of the UK workforce³².
- This number rises to nearly two-thirds (64 per cent) for people in working-class occupations.

It is important to note experiences of workers having informal flexible working. A 2016 NASUWT flexible working report³³ into the experiences of teachers found that a significant proportion of flexible working requests were granted on informal basis. Around 30 per cent

²⁶ TUC (2019) Flex For All

²⁷ DfE (2019) Childcare and Early Years Survey of Parents in England 2018

²⁸ ONS (2019) Families and the Labour Market

²⁹ TUC (2020) Forced out: The cost of getting childcare wrong

³⁰ DfE (2020) Coronavirus implementing measures in education and childcare settings

<https://www.gov.uk/government/publications/coronavirus-covid-19-implementing-protective-measures->

³¹ TUC (2019) Transparency: Flexible working and family related leave and pay policies,

<https://www.tuc.org.uk/research-analysis/reports/transparency-flexible-working-and-family-related-leaveand-pay-policie>

³² TUC (2019) Flex For All

³³ <https://www.nasuwat.org.uk/uploads/assets/uploaded/6fd07ce3-6400-4cb2-a8a87b736dc95b3b.pdf>

of teachers said that they were more likely to be granted flexible working on an informal, rather than formal, contractual basis. The reasons for the informality of approaches were varied but included reluctance on the part of employers to visibly support flexible working. One teacher reported that her headteacher refused to agree to a formal arrangement for flexible working on the grounds that it might encourage other teachers at the school to make similar requests.

Teachers who had access to this type of informal flexible working arrangement were likely to accept such an agreement. However, some found that these arrangements, due to their informality, were revoked at short notice with no reason given. This usually occurred during changes of management at the school. In these circumstances, where reduced hours had not been formally agreed and documented as a variation to contract, teachers found themselves vulnerable to their hours being drastically reduced or increased overnight.

Employers should be required to publish any carers' leave or support policies covering all carers including those caring for disabled or ill adults.

To help working parents and carers the government should urgently act to deliver on its commitment to making flexible work the default, as set out in the Queens Speech³⁴

We need to reform the right to flexible working, making it a day one right for all workers. Government should introduce a duty on employers to publish flexible working options in job adverts and give workers the right to take up the advertised flexibility from day one. If employers feel that a role cannot accommodate any form of flexibility, they should be required to transparently set out the exceptional circumstances that justify this. Alongside this, government needs to strengthen the current right to request flexible working legislation to include a day one right for all workers to request flexible working.

The criteria which employers can use to justify refusing requests should also be more tightly drawn and an appeal process should be introduced that allows individuals to scrutinise and challenge the reasons given for rejecting a request.

By giving workers a day one right to flexible work the government could create more opportunities for parents, particularly working mums, to balance work and care amidst hugely restricted childcare options

Parental leave

As track and trace systems come in, any working parent and carer could find themselves at short notice required to isolate their entire household as a result of someone coming into contact with coronavirus for at least 14 days. Local lockdowns can also be imposed and potentially last even longer. This could lead to many working parents being faced without any childcare at short notice.

Under current employment rights legislation, many working parents and carers will be faced with no choice but to request unpaid time off. Working parents and carers in this situation

³⁴ PMO (2019) The Queen's Speech 2019 available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853886

have two options both of which are limited and unpaid: which is unpaid parental leave or time off for family and dependents.

A TUC report³⁵ found that 58 per cent of young workers were concerned about exercising the right to take unpaid parental leave, feeling that it could result in negative consequences. 74 per cent of young workers were also worried about the potential loss of earnings that came with this right.

Sacrificing pay to take a period of leave is not possible for most families. The notice period of 21 days for using unpaid parental leave is also too long and overly arduous.

The government should urgently address the failings of our current parental leave system, ensuring all parents have a day one right to ten days paid parental leave, with a notice period proportionate to the amount of leave being taken.

Time off for dependents

Many working parents, guardians and carers have a right to emergency dependants' leave.

This can be taken at any time without needing to give notice and is for a period of between several hours and several days. However, it is unpaid, and only covers the period of time required to address an immediate problem. It may be helpful when faced with sudden school closure but would not provide parents an option for the full 14 days they and their child may be required to isolate.

As a recent UCU survey³⁶ highlighted, one of the main issues unpaid carers face is the need to take time off (sometimes at short notice). Respondents reported having to take unpaid time off from work during crises, for example, if the person they cared for had a fall or became suddenly unwell. Some highlighted the particular challenges of having to be available for a family member who had autism, dementia or a mental health condition, whose needs were often very unpredictable.

Carers also reported needing to be available during work hours to receive calls (from doctors, paid carers, or from the person they cared for) and to arrange hospital visits and other appointments on behalf of the person they cared for. Having to use up their annual leave to attend appointments and provide ongoing care to a loved-one was also a common experience for carers.

Many working carers are worried about their job security, but also their relationships with colleagues, and their ability to negotiate future 'give and take' arrangements.

³⁵ https://www.tuc.org.uk/sites/default/files/Better_Jobs_For_Mums_And_Dads_2017_AW_Digital_0.pdf

³⁶ <https://www.ucu.org.uk/media/10189/Hidden-in-Plain-Sight/pdf/HiddenInPlainSight-Report-FINAL-8Aug2018.pdf>

Who would be eligible to take the leave?

Relationship between the employee and the person cared for

The Government is proposing that the definition for Carer's Leave should broadly mirror dependant relationships under the right to time off for dependants. This would mean that a person could take Carer's Leave to care for:

- *A spouse or civil partner*
- *A child*
- *A parent*
- *A person who lives in the same household as the employee (other than as an employee, tenant, lodger or boarder)*
- *Someone else who reasonably relies on the employee for care*

Do you agree that this provides an appropriate definition of caring relationships for the purpose of Carer's Leave?

We do not agree that the definition provided is appropriate and believe that it needs to be expanded to cover the necessary breadth of caring relationships (see below).

3. Are there other caring relationships that you think should be considered for inclusion within the scope of Carer's Leave

Many people who care for others have multiple caring responsibilities.

In addition to caring for their parents and grandparents, older women often provide childcare for their grandchildren.

Many parents rely on grandparents for informal childcare. The pressure to work enough to make a living and support a family combined with the pressure to be available to care for family members can be immense³⁷. Most recently a union has told us that many workers care for a parent or parent-in-law or someone elderly. The type of care provided can be emotional support, practical help and providing help with paperwork, financial matters.

Many workers also carry out eldercare³⁸ such as caring for an aging relative and/or friend who cannot manage without help because of sickness, frailty or impairment. Those requiring care may be partners, relatives, friends or neighbours.

Young carers also help to look after parents, siblings or other relatives who are disabled, ill, or who have drug or alcohol problems.

³⁷ https://www.tuc.org.uk/sites/default/files/Age_Immaterial_Women_Over_50_Report_2014_LR_0.pdf

³⁸ <https://www.ucu.org.uk/media/8175/Caring-for-the-carers-a-UCU-guide--2-The-picture-of-caring/pdf/2 - Picture of Caring.docx.pdf>

We believe that the list of those able to take carers leave should be widely drawn and include the following:

- spouse, partner or civil partner
- child/stepchild/foster child
- parent
- parents in law
- grandparent
- relative
- friend or neighbour
- person who lives in their household (not tenants, lodgers or employees)
- a person who would rely on them for help in the event of an accident, illness or injury, such as an elderly neighbour
- a person who relies on them to make care arrangements

It is important that the definition of a dependent is not limited as this could risk excluding large numbers of people who have significant caring responsibilities for those who are not direct family members. In the absence of the right to paid parental leave to manage caring commitments for children it is also important that those caring for children are included within the scope of carers leave. The dilemmas and pressures which require workers to take leave are experienced by those caring for children as well as those caring for adults.

TUC therefore believes the definition of a dependent should be a “child/step child, partner or parent of the employee, someone else who lives with employee as a member of their family, or someone who relies on the employee in an emergency”. Employers should be asked to interpret this flexibly.

Care need

5. If you do not believe that any conditions about care need are appropriate, please explain why and comment on any other conditions which might be appropriate

To support carers, the TUC believes that carer’s leave should not be restricted to those caring for individuals with physical or mental health problems, disability or issues related to old age and where care is likely to last for a longer period of time.

A 2018 UCU survey³⁹ showed 41 per cent of carers said that the person they cared for had some type of physical health condition (including a life-limiting condition such as kidney failure or lung disease; or a terminal illness). 30 per cent said the person they cared for had

³⁹ <https://www.ucu.org.uk/media/10189/Hidden-in-Plain-Sight/pdf/HiddenInPlainSight-Report-FINAL-8Aug2018.pdf>

a mental health condition including a learning disability. 28 per cent said the person they cared for had both a physical and a mental health condition.

There are also other conditions that are debilitating and prevent an individual temporarily from being able to care for themselves and undertake normal day to day activities should be included, such as endometriosis. This type of condition and others where care is not likely to last for a longer period of time but care is nevertheless required should be included as a care need.

Qualifying period

6. Which qualifying period do you believe is appropriate for Carer's Leave. Please select one option.

The TUC believes that carer's leave should be a day one right without a qualifying period

For most people, the idea of going weeks without pay isn't an option, even if their employer agrees to the time off. Many working carers in secure jobs have therefore either had to attempt to balance paid work and care at home, where they can, or use annual and then unpaid leave to accommodate their caring responsibilities. In the longer term, this has a huge impact on the incomes of working households.

Furthermore, not everyone has the right to take time off. This has denied many women in insecure employment any right to leave at all and for many in this position has made managing work and care almost impossible.

In too many cases carers have been forced to take annual leave, intended for rest and recuperation, to carry out caring responsibilities. A recent CIPD report⁴⁰ showed that 46 per cent of working carers had used their own annual leave to provide care. Some 15 per cent had taken sick leave to provide care.

A UCU⁴¹ survey respondent described using annual leave to care for parent:

"My mother, due to her brain injury, sometimes calls work which I feel self conscious about. I have been called to the hospital very last minute during work hours. If you are needed to go and support someone at a hospital visit / test you have to use annual leave; there is not an option to claim it back." (Female, higher education)

The UCU⁴² report highlighted carers repeatedly saying they felt stressed, exhausted, drained, isolated, lonely, helpless, angry, frustrated, hopeless and overwhelmed. People reported suffering from insomnia, disrupted sleep (because the person they care for wakes several times in the night), difficulties concentrating, memory lapses, tearfulness, depression and anxiety.

⁴⁰ http://circle.group.shef.ac.uk/wp-content/uploads/2020/06/8008-Supporting-working-carers_WEB-1.pdf

⁴¹ <https://www.ucu.org.uk/media/10189/Hidden-in-Plain-Sight/pdf/HiddenInPlainSight-Report-FINAL-8Aug2018.pdf>

⁴² <https://www.ucu.org.uk/media/10189/Hidden-in-Plain-Sight/pdf/HiddenInPlainSight-Report-FINAL-8Aug2018.pdf>

Carers often said they had not been able to have a proper holiday for many years because they have to use their annual leave to look after a family member. Relationships with friends and colleagues were affected because people had no time available for socialising. Sandwich carers, those with caring responsibilities for both adults and dependent children, are particularly affected by this. Sandwich carers are more likely to experience symptoms of mental ill-health such as anxiety and depression than others. More than a third of sandwich carers providing at least 20 hours of adult care per week report symptoms of mental ill-health. A majority of this type of carer also report being unhappy with the amount of leisure time they have⁴³

What the leave can be taken for

7. Do you agree with the proposed reasons for taking Carer's Leave?

Please comment, including on whether Carer's Leave should be available to use to accompany someone to appointments.

The TUC believes that the types of care that carers need to provide should be broadly defined by the individual themselves. Research have shown the breadth of caring responsibilities which can, for example, range from providing financial assistance, visiting an ill friend or parent or taking them to the doctor, giving emotional support or providing personal care.⁴⁴

Young carers⁴⁵ often undertake duties such as washing, cooking, cleaning for the family. They also provide support with cooking, washing or administering medication.

Caring responsibilities can be erratic and vary over time and there is no established definition of what a carer is. This is why TUC agrees that the definition should be broad and supports the list of reasons listed in the consultation. TUC believes workers should be able to use carers leave to accompany someone to the hospital. As stated previously, carers should not have to use annual leave for caring responsibilities.

What the leave cannot be taken for?

9. Do you agree that childcare (other than where the child has a disability or other longer-term caring need) should be out of scope for Carer's Leave?

• *10. Do you agree that caring for a person with short-term care needs should be out of scope for Carer's Leave?*

⁴³ ONS (2019) People, population and community, available at <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/articles/morethanoneinfoursandwichcarersreportsymptomsofmentalillhealth/2019-01-14>

⁴⁴ <https://www.ucu.org.uk/media/8175/Caring-for-the-carers-a-UCU-guide--2-The-picture-of-caring/pdf/2 - Picture of Caring.docx.pdf>

⁴⁵ <https://www.ucu.org.uk/media/8175/Caring-for-the-carers-a-UCU-guide--2-The-picture-of-caring/pdf/2 - Picture of Caring.docx.pdf>

11. Are there any other circumstances or activities which Carer's Leave should not be taken for?

The TUC strongly believes that childcare should be in scope for carer's leave. We do not agree that short term care needs should be out of scope.

A TUC report⁴⁶ found that working parents take annual leave to look after their sick child. The report showed that annual leave is often seen as a "reserve" of days to be used in an emergency or to cover required appointments. Parents keep this "bank" in place, protecting it as much as possible. There is a cultural assumption that this is what annual leave is for. Some young parents even expressed a sense of "owing it to their employers" to think about using their annual leave in this way. The effectiveness of this coping strategy to take time off at short notice relies on a parent's relationship with their line manager.

The report also highlighted that working parents take sick days instead of admitting their child is ill. In most cases this ensures their income is covered and that they are not penalised for having caring responsibilities. For some, it means they are avoiding the feeling that "they're always asking for something because of the kids". Many parents reported using this strategy when they had a poor relationship with their managers. But all reported that this wasn't a comfortable choice and used as a last resort.

TUC believes childcare should be included within the scope of carers leave as well as caring for other needs such as a sick children. It is crucial for parents to be able to 'react' at short notice because children (and life) are unpredictable and arrangements for childcare can often fall through.

Evidence

12. Do you agree that an employee should in the first instance be able to self-certify their eligibility for Carer's Leave?

13. If you strongly agree or agree, how often do you think an employee should self certify their eligibility for Carer's Leave?

14. Do you agree that an employer should be able to request further evidence if they are not satisfied with the self-certification?

15. If agree or strongly agree, please describe what evidence could be provided to demonstrate: • The need for care (of the person being cared for)? • What activities the leave is used for?

16. Please comment on the key difficulties or challenges associated with providing and appropriately handling evidence, including data protection issues related to information about a person's health

The TUC agrees that a worker should be able to self-certify their eligibility for carer's leave. The process of self-certification could mirror the steps taken to self-certify for sickness.⁴⁷

⁴⁶ https://www.tuc.org.uk/sites/default/files/Better_Jobs_For_Mums_And_Dads_2017_AW_Digital_0.pdf

⁴⁷ <https://www.acas.org.uk/absence-from-work/fit-notes-and-proof-of-sickness>

This will provide carers with flexibility needed to support them remaining in work.