

Consultation response

Carer's Leave

Department for Business, Energy & Industrial Strategy

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About this consultation

The Government is proposing to introduce a right to a week's unpaid Carer's Leave each year, to assist employees with balancing their work and caring responsibilities. This consultation explores the detail behind the proposal.

Key points and recommendations

- Age UK **welcomes the introduction of Carer's Leave**, as we believe it is a step in the right direction for helping people with caring responsibilities remain in work.
- Based on our own research findings, **we believe that a paid leave, coupled with a longer unpaid period, would be much more beneficial for carers, and we call on the Government to set out a timetable to introduce this**. We recommend 10 days paid leave, with a further additional period of four week's unpaid leave.
- While we accept that other employment rights, notably the time off for dependants' emergencies, can be used to help people meet their caring responsibilities, **we are concerned that many carers and employers will find combining bits and pieces of existing law with new Carer's Leave provisions confusing**, and bringing all relevant aspects within the new provisions is the most sensible way forward.
- To improve clarity and understanding among the public, everything relevant should be set out in the Carer's Leave procedures, in particular by including emergencies.
- **Short-term care needs are equally as important to include in the measures as are longer-term needs**. Many carers will feel let down if their friend or relative does not meet the arduous qualifying criteria.
- **Carer's Leave should be a 'day one' right**.

About Age UK

Age UK is a national charity that works with a network of partners, including Age Scotland, Age Cymru, Age NI and local Age UKs across England, to help everyone make the most of later life, whatever their circumstances. In the UK, the Charity helps more than seven million older people each year by providing advice and support. It also researches and campaigns on the issues that matter most to older people. Its work focuses on ensuring that older people: have enough money; enjoy life and feel well; receive high quality health and care; are comfortable, safe and secure at home; and feel valued and able to participate.

Introduction

Juggling caring responsibilities while holding down a job can be extremely difficult. Many working carers, and those who would like to work, face such difficulties on a daily basis, which can compromise their ability to maintain a decent standard living. We are pleased that the Government is committed to implementing Carer's Leave, and hope this happens as soon as possible.

Age UK has previously published a policy report, ['Walking the tightrope: the challenges of combining work and care in later life'](#), which examines the difficulties faced by carers aged 50+. Crucially, our analysis found that as little as five hours caring per week affects carer's employment prospects, and from 10 hours of caring upwards there is a very strong impact on employment rates.

As part of this report we ran two focus groups, in Whitley Bay and Camden, London, at which we discussed with older carers the barriers they faced that prevented them working or restricted their hours. As much of this is not the focus of the consultation, we will not go into detail here (please consult the report for more information), but it is noteworthy that we had specific discussions about carers leave.

Overall, paid carers leave was regarded as highly beneficial and would enhance their employment prospects, allowing recipients to meet their responsibilities as carers while improving financial resilience – many working carers told us they are living on the breadline so this impact should not be underestimated. It would also have the beneficial side-effect of improving recognition of caring responsibilities among other workers. Some participants also valued an additional, longer period of unpaid leave on top of the paid leave, as they believed this would offer additional job protection. These discussions can be summarised as:

“Carers in our focus groups said that they would find a statutory entitlement to carers' leave very helpful, and while ideally most would prefer such leave to be paid as the financial strain of being a carer can be considerable, a guarantee that using leave would not harm future employment prospects, was considered the priority.

Once a period of statutory leave has been established, progressive employers could then be encouraged to go further, by extending to carers some of the current allowances made for parents – including paid periods of leave, and options for career breaks etc.” (page 36, Walking the Tightrope)

The nature of the debate on Carer's Leave has changed in the four years since we conducted the research. We now believe that Government should introduce a statutory right to a minimum of 10 days paid carers leave, per annum, followed by an additional period of at least four weeks unpaid leave to match the existing provisions for child dependents.

If the Government does not introduce paid Carers Leave at this point, it is important that it sets out a timetable of when and how this will happen. While unpaid leave is a step in the right direction, it will fail to help the majority of carers for whom taking the leave would put them under increased financial pressure.

It is also important to consider Carer's Leave alongside existing flexible working measures, which can help working carers improve their work-life balance. However the flexible working provision itself is flawed, and needs to be strengthened so individual employees have the confidence to assert their rights, as well as the power to get beneficial outcomes that help in their specific circumstances.

Consultation questions

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

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

We agree this is an appropriate definition. Our main comment on the definition is that in addition to specifying 'parent' and 'child', it should also state 'family member'. This would then clearly include siblings, who also often provide care for one another, and remove any ambiguity.

Also we do not see why it is necessary to provide a list of exclusions under the 'person who lives in the same household' section, when the following point ('someone else who reasonably relies on the employee for care') is broad enough to include them if necessary. This could lead to mixed messaging and a lack of clarity in the guidance.

**4. Which conditions on care need do you believe are appropriate for Carer's Leave?
Please select all which apply.**

• *Length of the condition, please comment on what length might be appropriate*

We do not agree that the length of condition is relevant. If someone has care needs of any kind, which for example could be a short-term readjusting to home life following a hospital discharge, then their carer should be eligible for Carer's Leave. Attaching it to certain conditions will create a misunderstanding among the public and employers, while continuing to place carers of older people (in particular) at a disadvantage when compared to childcare.

• *Conditions which automatically qualify as a disability under the Equality Act 2010 (Cancer, HIV and MS), please comment*

It is not necessarily appropriate to link caring responsibilities to the legal definition of disability. Many people suffering from these conditions will of course need care, but to exclude a range of other conditions from automatically qualifying for Carers Leave will, we believe, potentially undermine many of its benefits. It will leave many carers and care recipients frustrated that they are still unable to balance this with their workplace duties.

Also, some health conditions fluctuate over time, meaning it is not always possible to predict whether or when caring leave will be needed. Restrictive definitions like this risk turning the new provision into a damp squib.

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.

We do not believe that eligibility for Carer's Leave should be linked to specific health conditions. Care need is not always directly due to a medical diagnosis, it can be because of general frailty, so pinning eligibility on these terms is inappropriate and could create confusion. We are also concerned contradicts the explanation in the consultation paper that Carer's Leave is "for individuals with physical or mental health problems, disability or issues related to old age and where the care need is likely to last for a longer period of time such as six months or a year." The suggested criterion is less inclusive than the definition.

Having it only apply to long-term health conditions will mean many people who need it are ineligible. Care needs can arise at short notice too, or be temporary, for example following

a fall or a hospital discharge, making the proposed restrictions unhelpful. We are also worried they will create confusion.

We are also concerned about data protection. It is likely to be unfeasible and undesirable for employers to access the medical records of people who are not even their own employees.

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

- *6 months of continuous employment with their employer*
- *3 months of continuous employment with their employer*
- *A day one right (no qualifying period, but with appropriate notice period)*
- *Other, please specify*

Please provide reasons for you answer

Eligibility for Carer's Leave should be a day one right. Imposing a qualifying period will make it harder for non-working carers to move back into the workplace, and undermine the confidence of carers to ask their employer. It will also create a two-tier system for carers, with those who are in a stable secure job more likely to be able to balance their responsibilities than those in lower paid, less secure work – effectively carers working in lower skilled roles will be particularly disadvantaged, while those working in professional jobs will be much more able to take advantage of the new leave.

The Right to Request flexible working has, to an extent, been undermined by the need for employees to complete a qualifying period, and we do not wish to see the same mistake made with Carer's Leave, so it is important that from the outset the Government avoids qualifying periods.

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.

8. Are there any other reasons that you think should be included?

We strongly agree with the proposed reasons, and are pleased the Government is pursuing a broad approach. In our experience, many older people will find it invaluable if their carer is able to accompany them to an appointment, so this should be included.

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

Please provide reasons for your answers

We strongly disagree. It is just as important to be able access help and support from a carer when a person develops a short-term need. For example, if an older person is discharged from hospital, they may need help with getting comfortable at home, arrangements to obtain and take medicines, cooking and other domestic work, or matters of personal hygiene.

This could be the case even where the individual is expected to make a full recovery in a short space of time, and under the proposed guidelines their carer would be out of scope for Carer's Leave, which would not be acceptable.

We are concerned that providing such assistance would not fall under existing emergency leave, while taking it as annual would not be appropriate. It is worrying that the consultation paper seems to endorse using annual leave in such situations – this would surely directly undermine the purpose of introducing Carer's Leave?

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

For clarity, we believe that Carer's Leave should be available in all circumstances related to the care of adults. There is a risk that doing otherwise will cause confusion which could undermine the core benefits of introducing the leave.

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

Please provide reasons for your answers

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?

We strongly agree that employees should be able to self-certify. Among organisations that currently use their own carers leave policy, the feedback is generally very positive and that employees do not misuse it. The good and sensible use of carers leave is enhanced by a good organisational culture and the promotion of the 'good work' agenda, and we are pleased the Government is still pursuing this more widely.

Self-certification should be the norm, with powers for employers to request proof in exceptional circumstances if they have reasonable grounds for suspicion that an employee is mis-using the leave.

As noted above, there may be data protection issues involved in proving a medical condition to a carer's employer, especially where there is only an indirect connection between the two parties.

17. Please comment on the pros and cons for employees and employers, if the leave was available to take as:

- ***A week of unpaid leave, available to take as a single block?***
- ***A week of unpaid leave, available to take as individual days?***

We are concerned that taking the leave as single block would not be flexible enough to meet many caring responsibilities. For many working carers, their responsibilities come in small chunks, such as accompanying someone to a regular appointment, and so it is difficult to see how only taking one block of carers leave each year would help. Carer's Leave may fail to help those who it is designed for if it's too inflexible.

18. Do you agree that an individual should be required to give their employer notice ahead of taking Carer's Leave?

Please provide reasons for your answers

In many circumstances, where the carer is aware in advance, it is reasonable to give notice. However, many carers are required to deal with emergency incidents, for which it is impossible to do so.

While the existing right to time off for dependants could be used here, we are concerned that relying on different types of leave muddies the waters and leads to a lack of understanding about employment rights. Creating a Carer's Leave is an opportunity to make it crystal clear that there is support to help carers and what this means, and bringing everything together in one place will be extremely helpful in boosting employees' understanding.

It should be possible to build an exception to the Carer's Leave procedure to allow for emergencies, which we believe would be the best solution.