

Introduction

Carer's leave is a 'day one' employment right for employees which means there is no minimum period of service required to take carer's leave. It became a statutory right on 6th April 2024.

To be eligible, an individual must be an employee of the organisation. Non-employees such as agency workers, contractors, consultants, and self-employed individuals are not entitled to the statutory right to carer's leave. Carer's leave is intended to allow an employee to take time off to provide or arrange care for a "dependant" with a "long-term care need". A dependant covers:

- the employee's spouse, civil partner, child or parent;
- any person who lives in the same household as the employee (other than as a lodger, tenant, boarder, or employee); or
- any other person who would reasonably rely on the employee to provide or arrange care.

To have a long-term care need, the dependant must:

- have an illness or injury (which could be physical or mental) that requires, or is likely to require, care for more than three months;
- have a condition that amounts to a disability under equality legislation or
- require care for a reason connected with their old age.

An employee is not eligible to take carer's leave to cover their general childcare responsibilities unless the child has a long-term care need.

The purpose of carer's leave

Carer's leave can be used to provide or arrange care for a dependant with a "long-term care need". The law is not prescriptive as to:

- what counts as providing or arranging care; and
- the nature of the care that the dependant needs.

However, an individual is likely to want to use carer's leave for one or more of the following activities with their dependant:

1. Providing personal support:
Keeping an eye out for them; keeping them company; and staying in touch.
2. Providing practical support:
Making meals for them; going shopping for them; doing laundry, cleaning, gardening, and maintenance; and providing other help around the home.
3. Helping them with official or financial matters:
Helping them with paperwork; paying bills/rent/rates; collecting pension/benefits; and accompanying them to a financial or legal appointment.
4. Providing personal and/or medical care:
Collecting prescriptions; giving medications; changing dressings; helping them move around the home; helping them with day-to-day activities, including dressing, eating, wash, bathing, and using the toilet; and accompanying them to a medical appointment.
5. Making arrangements related to their care:
Dealing with social services or the voluntary sector; moving them into a care home; and making home adjustments or adaptations.

While this list provides examples of what activities a carer might be doing during their leave, it is ultimately up to them what they do with the leave.

You should not delve into what the employee is doing during their carer's leave. While you can ask an employee to postpone carer's leave that they have requested if you reasonably consider that operations would be unduly disrupted, it would be seen as inappropriate for you to ask an eligible employee to justify why they need to take carer's leave.

Time off for dependants: a separate right

It is important to bear in mind that carer's leave is intended to be used for planned and foreseen caring commitments. If an employee needs to take time off to manage an unexpected or sudden problem relating to a dependant and make any necessary longer-term caring arrangements, they can make use of their separate right to time off for dependants. Employees have the legal right to a reasonable amount of time off during working hours to take necessary action:

- to provide assistance when a dependant falls ill, gives birth or is injured or assaulted;
- to make arrangements for the provision of care for an ill or injured dependant;
- because of the unexpected disruption or termination of arrangements for the care of a dependant;
- in consequence of the death of a dependant; and
- to deal with an incident that involves their child, and which occurs unexpectedly while the child is at school or another educational establishment.

Time off for dependants is designed to deal with the immediate aftermath of an unexpected or sudden problem involving a dependant. While the appropriate length of time off for dependants will vary according to the employee's circumstances, this type of leave is likely to last for one or two days at most.

Assuming that the employee is also eligible to take carer's leave - remembering that carer's leave is not designed to cover general childcare responsibilities, unless the child has a long-term care need - it may be possible for the employee to switch after one or two days from time off for dependants to carer's leave.

Other types of leave

You should bear in mind other types of leave that an employee could take to help them in their caring responsibilities, including:

- annual leave, which some employees may prefer to take as it is paid;
- compassionate leave, which some employers offer; and
- a career break, sabbatical leave, or special extended leave, if they feel that they would benefit from an extended period of time away from work.

These types of leave could be useful for an employee who has exhausted their entitlement to carer's leave in the rolling 12-month period and needs further time off.

Flexible working

As well as carer's leave, flexible working can help employees to navigate the challenges of caring while also working. This could include allowing the employee to work flexibly on a temporary (rather than permanent) basis to suit their caring needs, for example:

- working from home;
- moving to hybrid working; or
- changing their start and finish times.

Eligible employees have the right to ask their employer for a change to their working hours, working days or place of work and requests must be dealt with in a "reasonable manner".

How much carer's leave an employee can take

An eligible employee can take up to one week's carer's leave within any rolling 12-month period. The employee can take carer's leave in one continuous block, as individual days, or as half days.

A week of carer's leave is the same duration as an employee's normal working week. This means that a full-time employee (i.e., one who normally works five days per week) is entitled to five days' carer's leave in any 12-month rolling period. If an employee normally works four days per week, they are entitled to four days of carer's leave in any 12-month rolling period, and so on.

The amount of carer's leave is determined per employee, not per dependant. Therefore, an employee who is caring for more than one dependant (such as two elderly parents, or a disabled child and an elderly parent) is still entitled to only one week's carer's leave within any rolling 12-month period.

Notice to take carer's leave

An employee needs to give notice in advance that they would like to take carer's leave. To help to ensure that the amount of carer's leave taken is tracked and that the notice includes the required information, employees should submit their notice to take carer's leave using a specific requesting carer's leave form which should include an employee declaration that they are entitled to take carer's leave (i.e., that they are taking the time off to provide or arrange care for a "dependant" with a "long-term care need") and details of the period(s) that the employee is requesting to take as carer's leave.

The employee must give notice that is either at least twice the length of time being requested as carer's leave; or three days' notice, whichever is the longer period.

Postponement of carer's leave

You cannot outright refuse an employee's request to take carer's leave. However, you can require an employee to postpone their carer's leave if you reasonably consider that our operations would be unduly disrupted. In these circumstances, you should:

- consult with the employee on alternative dates on which they can take carer's leave; and
- explore any other available options, including allowing the employee to work flexibly on a temporary (rather than permanent) basis.

If you take the decision to postpone an employee's carer's leave, you must write to them within seven days of the request, explaining the reason for the postponement and providing revised dates on which the leave can be taken. You must allow the carer's leave to be taken within one month of the original request.

Terms and conditions of employment during and after carer's leave

Carer's leave is unpaid. This means that sums payable by way of wages or salary cease during an employee's carer's leave. Except for normal wages or salary, all terms and conditions of employment should remain in place during an employee's carer's leave. This includes the accrual of annual leave.

An employee who takes carer's leave has the right to return to the same job in which they were employed immediately before the absence.

The employee is entitled to return to no less favourable terms and conditions of employment, with seniority, pension rights and similar rights as if they had not been absent.