

Family Carers Ireland

Submission to the Department of Justice and Equality on Flexible Working

Family Carers Ireland welcomes the opportunity to submit our views to the Department of Justice and Equality on the development of flexible working policies. This submission is based on our experience of supporting Ireland's 355,000¹ family carers, of which some 57 percent are 'working carers' who juggle paid employment with a family caring role². In 2019 *Family Carers Ireland* introduced a 'Caring Employers' initiative designed to help Irish employer's better support family carers in their workforce (see www.familycarers.ie/caring-employers).

Family Carers Ireland has focused our submission on 4 key areas (i) Care or career – the sustainability of informal care (ii) European Directive on Work Life Balance for Parents and Carers and the Carer's Leave Act 2001 (iii) Carer's Benefit and (iv) practical measures to support flexible working.

(i). Care or career? The sustainability of informal care

One in 9 Irish workers juggle caring responsibilities with paid employment, with this figure likely to increase significantly over the coming years as Ireland's older population, rate of disability and the incidence of people living with a chronic condition continues to increase steadily. Estimates suggest that the proportion of family carers in Ireland will need to double by 2030 if we are to avoid a massive increase in public expenditure on community based health care. The personal costs of juggling care with career are also significant, with recurring disruptions to work undermining career goals and the burden of care responsibilities causing severe stress and poor mental health. Many carers are forced to reduce their hours, forego career opportunities or leave the workforce prematurely. The costs to employers from avoidable loss of talent, experience and institutional knowledge, plus productivity and turnover costs, are also significant. As the demands on working carer's increase, employers who create a culture of care, where the challenges for working carers are understood and flexible working is mainstream, will be best-placed to attract and retain employee's.

The facts:

- 1 in 9 Irish employees is caring for someone outside of work.
- 83% of all carers are of working age.
- The peak age for caring is 40 -59 years, meaning these are employees most likely at the peak of their career and a huge asset to their employer.
- 39% of all carers are men, meaning balancing paid work with caring responsibilities is an issue that affects male as well as female employees.
- Supporting carers in your workforce to stay in work by offering flexible work arrangements is a win-win solution: employers retain an experienced worker and save on recruitment and training costs while the employee can retain the income they are likely heavily reliant on, can continue to develop professionally and will avoid the many challenges of returning to the workforce after their caregiving has ended.

(ii). European Directive on Work Life Balance for Parents and Carers and the Carers Leave Act 2001

In June 2019 the European Council adopted a Directive on Work Life Balance for Parents and Carers which aims to increase the participation of women in the labour market and the take-up of family-related leave and flexible working arrangements. This Directive lays down minimum requirements related to paternity leave, parental leave and carers' leave, and to flexible working arrangements for workers who are parents, or carers. Specifically, the Directive allows for the (i) introduction of a minimum 5 days carers' leave each year for workers providing care and (ii) the right to request flexible working arrangements for the purpose of providing care.

¹ CSO Irish Health Survey (2015) shows 10 percent of the population aged over 16 are carers. If extrapolated to the national population, this means Ireland has close to 355,000 carers.

² CSO Census of Population 2016.

Ireland's Carer's Leave Act 2001 offers working carers amongst the most generous leave arrangements of any country, giving carers whose loved one is deemed to require fulltime care the 'right' to unpaid leave of up to 104 weeks during which time their employment rights are protected. Carer's can take Carer's Leave in shorter blocks of at least 13 weeks if preferred. Carers with sufficient PRSI contributions will also qualify for a weekly Carer's Benefit payment of €220 per week during this time. Despite the generosity of the Act there are currently only 3,177 people receiving Carer's Benefit (the only proxy measure available to record the number of people on Carer's Leave). A figure which has increased slightly in the last two years having remained in or around 2,500 for many years. The low take of Carer's Leave/Carer's Benefit calls into question a number of issues with regard to the Act, including (i) low public awareness (by comparison there are currently some 84,000 people in receipt of Carer's Allowance) (ii) a failure of employers to promote Carer's Leave amongst their employee's (iii) strict criteria attached to eligibility and (iv) poor oversight and policing of breaches of the Act.

Carer's Leave – *all or nothing*!

While acknowledging the strengths of the Carer's Leave Act one of its main drawbacks lies in the fact that it is *an all or nothing* intervention, meaning working carers must leave work altogether for up to two years, unless their employer agrees to allow them to reduce their hours of work to 18.5 hours – which they are not legally obliged to do. This in effect forces working carers out of employment when in fact in many cases all that is required is more flexible working arrangements. The Directive on Work Life Balance provides us with the opportunity to address this imbalance by offering working carers the right to a minimum of 5 days carers' leave each year and the right to request flexible working arrangements as critical precursors to Carer's Leave. Put simply, Carer's Leave should be situated along a continuum of interventions together with flexible working and carer leave days.

From an Irish perspective, while we are ahead of the curve with many of the proposed changes, the Directive on Work Life Balance offers an exciting opportunity to address the gaps in current Carer's Leave legislation and so further improve labour market participation by carers. Specifically *Family Carers Ireland* suggest:

- Granting all carers of people in need of fulltime care the right to five day's paid Carer's Leave each year. The payment could be provided for by the Department of Employment Affairs and Social Protection based on PRSI contributions.
- Giving all carers of people in need of fulltime care the right to request flexible working arrangements for the purpose of adjusting their working patterns, including, where possible, through the use of remote working arrangements, flexible working schedules, or a reduction in working hours, for the purposes of providing care.
- Commission research to examine barriers to the take up of Carer's Leave and people's experience availing of it.
- Launch a public awareness campaign to promote Carer's Leave.
- Promote the role of the Workplace Relations Commission in raising awareness of the Carers Leave Act and investigating complaints.

(iii). Carer's Benefit

While every effort should be made to support working carers to remain in employment, there are occasions when carers have no choice but leave the workforce temporarily to care. Carer's Benefit is a weekly non-means tested payment of €220 which is based on an employee's PRSI contribution record and which is designed to support carers to take time off work to care. Like Carer's Leave it is also paid for up to 104 weeks for each care recipient. As noted, take up of Carer's Benefit is low with just 3,177 claimants, with numbers peaking during the summer months when parents of children with special needs taking shorter blocks of Carer's Leave to cover the school holiday period. While an important scheme, *Family Carer's Ireland* suggest a number of practical steps which could be taken to improve the scheme and increase its value to working carers.

- Extend eligibility for Carer's Benefit to include people who are self-employed.
- Address the anomaly whereby carers claiming the non-means tested Carer's Benefit and working the allowed 18.5 hours per week cannot earn more than €332.50. This earnings ceiling is absolute (i.e. a person earning €350 is ineligible for Carer's Benefit) and did not increase following the increase in hours a carers can work from 15 to 18.5hrs as announced in Budget 2020.
- Carers frequently cite their inability to afford to live on Carer's Benefit as a reason for being unable to avail of Carer's Leave. To this end the Department should explore the indexation of Carer's Benefit against the worker's salary. For example Carer's Benefit would be paid at 50% of current salary up to a cap of €25,000 per year.
- Create an online system whereby working carers who are considering applying for Carer's Benefit can check online if they have sufficient PRSI contributions. At present, workers must first apply and wait months for a decision to be made, complicating their application for Carer's Leave.
- Streamline the transition between Carer's Benefit and Carer's Allowance for those carers whose caring role does not end after two years. This could be achieved by (i) using the medical assessment provided for Carer's Benefit and simply updating it on application for Carer's Allowance rather than requiring an entirely new medical assessment (ii) notifying carers 6 months before their period on Carer's Benefit comes to an end and advising them on the application process and means test for Carer's Allowance should they need it (iii) allowing for the sharing of information between the Carer's Benefit and Carer's Allowance sections within DEASP.

(iv). Tensions across Family Leave Arrangements

A lack of awareness of working carers coupled with their reluctance to discuss their personal caring responsibilities has contributed to a situation whereby some working carers describe tensions between themselves and their workplace colleagues. For example, some carer's describe feeling that the flexibility shown to parents is accepted by managers and colleagues, while distractions at work, lateness or days off due to caring responsibilities is less well understood or accepted. This results in working carers taking annual leave days in order to balance their caring responsibilities rather than asking for flexibility from their employer. As one working carer explained '*Carer's Leave is the poor relation of family leave policies. A sick child is considered more important than my elderly sick mother*'. It is imperative that concerted efforts are made by both Government and employers to create greater social and intergenerational solidarity with regard to familial caregiving by raising awareness and understanding among the general public, employers and their staff.

(v). Other Practical Measures to Support Flexible Working for Carers

- There is little point in giving carers the right to request flexible working if the essential health and social care infrastructure is not available to facilitate their participation in employment. In the same way as childcare is recognised as critical to parents' participation in the workforce, many carers simply cannot work if home care, respite and transport services are not available. (Cross departmental working with the Department of Health).
- Carers in receipt of Carer's Allowance are permitted to work 18.5 hours each week, with serious sanctions imposed if they exceed this limit. Carers are also not allowed to average their working hours over time which restricts carers from undertaking seasonal or irregular work. By abolishing this restriction and allowing carers to average their hours of work would give carers more work options and help attract staff to traditionally difficult to fill roles including in the homecare sector, where working hours can change from week to week. (Cross departmental working with the Department of Employment Affairs and Social Protection).
- Good practice employers already offer flexible working arrangements to their staff that go beyond current statutory requirements. Making such practices mandatory is potentially problematic – smaller employers might be obliged to restrict guaranteed opening/service hours

as a result. For this reason, any statutory requirement should, at a minimum, be made subject to ‘reasonable accommodation’. To the extent that the ultimate objective of the proposed legislation is to support continued workplace engagement by allowing better Work Life balance then it should also address a significant barrier to this objective arising from the Organisation of Working Time Act. Some family carers in receipt of Carers Allowance choose to supplement their income by working as a paid Home Care Worker (they have appropriate training and experience and appreciate the flexibility of sessional work) but are significantly hampered by the prohibition under the legislation of working for more than five days consecutively without a break - even if they are only working 2 hours per day (a potential total of 14 hours over a 7 day week) and continuity of care worker is widely acknowledged as a key indicator of quality of care.

Family Carers Ireland welcomes the opportunity to work with the Department of Justice and Equality to put in place supports to assist carers in the workforce and in particular in determining how best to implement the Directive on Work Life Balance for Parents and Carers. We remain hopeful that the requirements set out in the Directive can be delivered as expediently as possible.

Contact: Clare Duffy
Organisation: Family Carers Ireland
Position: Policy and Public Affairs Manager
Email: cduffy@familycarers.ie