

1 Policy Summary

The purpose of this Act is to provide for the temporary absence from employment of employees for the purpose of the provision of full-time care and attention to a person requiring it, while protecting the employee's employment rights.

Legislation: Carer's Leave Act, 2001.

2. Scope of the Policy

All employees employed by UCD are entitled to carers leave subject to meeting specific criteria. In the case of temporary staff employed under a fixed-term contract of employment, any entitlement to leave or other benefits lasts only as long as the contract of employment lasts.

3. Eligibility

Employees will be considered eligible to apply for carer's leave if the following criteria are met:

- Completed twelve months continuous employment with the employer from who leave is to be taken.
- The person they wish to look after is considered to be a 'relevant' person. A care recipient will be considered to be a 'relevant person' if they need continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or need continual supervision in order to prevent danger to themselves. A medical practitioner must certify the nature and extent of the care recipient's disability.
- The employee will be providing full-time care and attention to the relevant person.
- The employee will not be engaging in employment during the period with the exception of
 - Attending an educational or training course or take up voluntary or community work for up to fifteen hours per week;
 - Engaging in limited self-employment in your home;
 - Engaging in employment outside your home for up to fifteen hours per week must be approved by the Department of Social, Community and Family Affairs.
- The employee has provided the employer with a decision from a Deciding Officer.

4. Entitlements

The minimum period of leave is 13 weeks and the maximum period is 104 weeks.

Carer's leave can be taken as a continuous block of 104 weeks for each relevant person, or, by agreement with the employer, shorter periods adding up to 104 weeks. If the leave is broken up there must be at least six weeks between the leave periods. The employer may refuse to permit the employee to take a period of leave shorter than thirteen weeks. However, the employer must specify in writing the reason for refusal of such weeks.

The Act allows for the variation, postponement, and curtailment of the form in which carer's leave may be taken by agreement between the employee and employer concerned. The Act also provides that where the leave has been varied, postponed or curtailed the leave may be taken at another time.

An employee must tell their employer as soon as is possible about any changes in the circumstances of their leave.

5. Application Procedure

5.1 Application Procedure to the Department for Social, Community and Family Affairs

The employee should apply in the first instance, at least six weeks in advance of the proposed commencement date of carer's leave to the Department of Social, Community and Family Affairs, and to

1. The Department for Social, Community and Family Affairs will be responsible for ascertaining the validity of applications to avail of carer's leave. An application form (CARB1 Form) and information leaflet (SW 49) may be obtained from the Department for Social, Community and Family Affairs or from their web site at [The Department of Social and Family Affairs](#) website, The SW 49 Leaflet should be read before completing the CARB 1 Form. As part of this process a registered Medical Practitioner will be asked to fill in a form which will enable the Deciding Officer to judge the level of need of the care recipient.

An employee shall give his/her Head of School/Unit and UCD Human Resources a copy of the decision reached by the Deciding Officer as soon as he or she receives it and the employee shall not be entitled to carer's leave until UCD Human Resources has been given the copy.

In order to apply for the carer's benefit employees must also apply to the Department of Social, Community and Family Affairs and fulfil their requirements. Qualifying for carer's leave will not automatically mean that an applicant will qualify for carer's benefit.

5.2 Application Procedure to UCD HR

At the same time as making application to the Department of Social, Community and Family Affairs, an employee who proposes to avail of carer's leave should

download the 'Notification of Intention to take Carer's Leave' form from the [UCD Human Resources Web Site](#), or from, Compensation & Benefits, UCD HR.

The completed form should be signed by the employee and his/her Head of School/Unit and submitted to UCD HR at least six weeks in advance of the proposed commencement date of carer's leave. An employee shall provide UCD HR with a copy of the decision reached by the Deciding Officer as soon as he or she receives it and the employee shall not be entitled to carer's leave until UCD HR has been given the copy. Once approval has been secured for the application, UCD HR will produce a 'Confirmation Document' for the employee to sign.

Copies of the signed confirmation documents will be held by the employee and UCD HR in the University. All University documents must be held by UCD HR on the individual's personnel record. (Employers are under obligation to keep records of carer's leave periods taken by their employees for up to 8 years.)

In exceptional emergency circumstances when it is not possible to comply with this notice requirement, the employee must give as much notice as reasonably practicable. The confirmation document must be completed and signed at least two weeks prior to the proposed commencement of the carer's leave. The employee may in writing revoke notice given before the date of the confirmation document. Where leave is revoked it may not then be taken on the date on the confirmation document.

In the case where an employee would be entitled to carer's leave and takes leave purporting to be carer's leave without having taken account of relevant notice periods, the employer may, at their discretion treat the leave as carer's leave.

5.3 Application Procedures for a Second Period of Leave

While on carer's leave an employee may apply for a second period of leave if it will be to look after a second care recipient who resides with the first care recipient. If this application is approved and the prospective second care recipient is deemed to be a 'relevant' person then the period of leave granted for the first care recipient must finish 104 weeks after it started.

The second period of leave shall begin on the date that the Deciding Officer's final decision is made and must finish at the latest 104 weeks after it began. The total amount of leave period when taken together cannot exceed 208 weeks.

In the case of an approved second period of leave an employee does not have to reapply to their employer before it can begin. UCD Human Resources should issue a second confirmation document on receipt of notification from the employee. If an employee's carer's leave in respect to one relevant person has finished they may not apply for leave to care for a second relevant person until 6 months after the end of their previous period of leave.

6. Terms and Conditions of Employment while on Carers Leave

An employee while on carer's leave will be regarded as still being in employment and none of their rights relating to employment shall be affected, with the exception of remuneration, annual leave, public holidays, superannuation benefits or any obligation to pay contributions in, or in respect of, the employment. Such absence will be reckonable for redundancy purposes.

An employee will accrue annual leave for the first thirteen weeks of absence from work on carer's leave for each relevant person. An employee will be entitled to public holidays that occur during the first thirteen weeks of absence from work on carer's leave for each relevant person.

Carer's leave cannot be treated as part of any other leave from employment including sick leave, adoptive leave, maternity leave, parental leave, annual leave or force majeure leave to which an employee is entitled.

The employer may suspend a period of probation, or apprenticeship, while the employee is on carer's leave.

7. Returning to Work

At the end of the carer's leave the employee will be entitled to return to work with the same employer (or their successor) and to the same job. If it is not possible for them to return to the same job then a suitable alternative must be found where the type of job is similar and the terms and conditions are similar.

An employee who is on carer's leave shall give notice in writing to his employer of his/her intention of returning to work not less than four weeks before the date when he/she intends to do so.

However, carer's leave will terminate early in the following circumstances:

- The period covered by the carer's leave as specified in the confirmation document elapses;
- By Agreement between the employer and the employee;
- Assumption by another person or institution of full-time care;
- Death of Care Recipient (following which the Carer may take a further six weeks, or return to employment on the date of termination of the period specified in the confirmation document, whichever is the earliest.)
- If you are employed on a fixed-term or specified-purpose contract, any leave (or any other benefit) will end when your contract ends.

8. Abuse of Leave

An employer who believes that:

- the care recipient is not a 'relevant person' in respect to the employee or
- the employee will not or is not taking full-time care of the care recipient or
- the employee on carer's leave is engaged in employment

shall notify the Minister for Social, Community and Family Affairs of their opinion and the grounds for that opinion. A Deciding Officer will make a decision based on the evidence.

The leave shall terminate where a Deciding Officer or an Appeals Officer of the Department of Social, Community and Family Affairs makes a decision that:

- the person being cared for is not a relevant person for the purposes of the Act;
- the employee will not or is not providing full-time care and attention or that the employee
- is or has been engaged in employment or self-employment other than as prescribed.

The Deciding Officer shall let the employer and employee know of their decision as soon as possible.

Following this, if the Deciding Officer upholds the employer's opinion, the employer must notify the employee, in writing, specifying the date on which the employee is to return to his/her employment. The employee must return to their employment on the specified date. Any outstanding leave specified in the confirmation document shall be deemed not to be carer's leave. The employer must also give notice in writing to the Minister for Social, Community and Family Affairs that the leave has been terminated and specifying the employee's date of resumption of employment.

If an employee is found to be abusing their entitlement to carer's leave they may become subject to the disciplinary process.