



Carer's Leave Policy

Version 2

Purpose:	The purpose of Carer's Leave is to allow temporary absence from employment for the purpose of providing care and attention to a person requiring it, while protecting the employee's employment rights.
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Policy author:	Human Resource Department & EDI Office
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1. Introduction

The Carers Leave Act 2001 entitles a staff member to take unpaid leave to enable them to provide full time care and attention for a person who needs such care. 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. The Act protects the employment rights of staff who take Carer's Leave.

2. Eligibility

A staff member will be considered eligible to apply for Carer's Leave if the following criteria are met:

- Must have completed twelve months continuous employment with the Institute from who leave is to be taken, before the commencement of the leave.
- 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. A medical practitioner must certify the nature and extent of the care recipient's disability.¹
- The leave can only be taken if the employee will be providing full-time care and attention to the relevant person and must do so for the duration of such leave.
- 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 18.5 hours per week must be approved by the Department of Social Protection.
- The staff member has provided the Institute with a decision from a Department of Social Protection Deciding Officer².

3. Entitlements

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

- If a staff member seeks a period of less than 13 weeks of Carer's Leave, the Institute may refuse this request. However, the Institute must specify in writing the reason for refusal of such 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 6 weeks between the leave periods. The Act allows for the

¹ The Carer's Leave Act 2001

² An employee who proposes to avail of carer's leave shall apply to the Minister for Social, Community and Family Affairs for a decision by a Deciding Officer.

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. The Institute must tell their staff member as soon as is possible about any changes in the circumstances of their leave

4. Application Procedure

The Department of Social Protection (DSP) is responsible for ascertaining the validity of applications to avail of Carer's Leave. The DSP also decides an employee's entitlement to Carer's Benefit, which is based on the employee's PRSI contributions. However, entitlement to Carer's Benefit is not a condition for entitlement to Carer's Leave. A staff member must give written notice to the Institute of the intention to take Carer's Leave, not later than 6 weeks before they propose to commence the leave.

- As part of this process a registered Medical Practitioner will be asked to complete a form which will enable the Deciding Officer to judge the level of need of the care recipient.
- A staff member shall give their Head of School/Department/Function/Centre and Human Resources a copy of the decision reached by the Deciding Officer as soon as they receive it and the employee shall not be entitled to Carer's Leave until 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.
- At the same time, the staff member must complete and submit the 'Notification of Intention to take Carer's Leave' form to the Human Resources Office through your Line Manager. This notification must state :
 - the proposed commencement date of the leave;
 - the proposed duration of the leave;
 - the manner in which the leave is to be taken;
 - the proposed cessation date of the leave;
 - a statement that an application has been made to the Department of Social Protection seeking a decision on the eligibility of the relevant person to be cared for.
- Prior to taking Carer's Leave, the staff member must provide the Institute with a copy of the decision from the Department of Social Protection, stating that the relevant person has been medically certified as being in need of full-time care and attention.
- If approval to take Carer's Leave has been obtained from the Department of Social Protection, the Human Resources Office will outline the proposed arrangements to the staff member in writing, enclosing a confirmation document. The confirmation document must be signed by the staff member no later than 2 weeks before the leave is proposed to be taken, and they should confirm the date on which the leave is proposed to commence, and the requested duration of the leave.
- In exceptional emergency circumstances when it is not possible to comply with this notice requirement, the staff member must give as much notice as reasonably practicable. The confirmation document must be completed and signed at least 2 weeks prior to the proposed commencement of the Carer's Leave. The staff member 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 a staff member 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 Institute may, at their discretion treat the leave as Carer's Leave.

5. General Provisions

- You may only be on Carer's Leave in respect of any one person in need of full-time care at any one time. An exception is where 2 people live together and both are in need of full-time care and attention. In this situation the total amount of Carer's Leave is 208 weeks (104 for each person being cared for).
- If your Carer's Leave to care for someone has terminated, you cannot commence another period of Carer's Leave to care for a different person until a period of 6 months has elapsed since the termination of the previous period of Carer's Leave.
- Only one person is allowed to use the Carer's Leave for a specific care recipient at any one time.
- Carer's Leave is not granted if the care recipient is in receipt of full-time care and attention from someone else.
- The staff member must live with the care recipient or, under certain circumstances, be in close proximity to them with a direct line of communication.
- A staff member 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.
- A staff member will accrue annual leave for the first 13 weeks of absence from work on Carer's Leave for each relevant person. A staff member will be entitled to public holidays that occur during the first 13 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.

6. Returning to Work

Section 14 & 15 of the Carer's Act refer to:

- Protection of Employment Rights whilst taking leave under the Act;
- Right to return to the position held prior to taking leave under the Act and on the same Terms and Conditions; and
- Where it is not reasonably practicable for the employee to return to the position previously held, the Institute must find an alternative suitable position on Terms and Conditions not substantially less favourable than those which applied prior to taking leave under the Act.

The staff member must give the Institute at least 4 weeks' notice in writing that they plan to return to work. When their carer's leave ends, the Institute must write to tell the DSP the date of their return to work. At the end of the Carer's Leave the employee will be entitled to return to work within the same Department/Functional area and to the same position. If it is not possible for them to return to the same position, then a suitable alternative must be found where the type of job is similar and the terms and conditions are similar.

Carers 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 Institute and the staff member.
- Assumption by another person or institution of full-time care.
- Death of Care Recipient (following which the Carer may take a further 6 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.

7. Misuse of Carer's Leave

The Institute shall notify the Department of Social Protection if they believe any of the following:

- the care recipient is not a 'relevant person' in respect to the staff member or
- the staff member will not or is not taking full-time care of the care recipient or
- the staff member on Carer's Leave is engaged in employment


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 Protection makes a decision that:

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

The Deciding Officer shall let the Institute and staff member know of their decision as soon as possible. Following this, if the Deciding Officer upholds the Institute's opinion, the Institute must notify the staff member, in writing, specifying the date on which the staff member is to return to their employment in the Institute.

The staff member 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 Institute must also give notice in writing to the Department of Social Protection that the leave has been terminated and specifying the staff member'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 Institute's disciplinary procedures.

Carers Leave Form

 NOTIFICATION OF INTENTION TO TAKE CARER'S LEAVE
<ul style="list-style-type: none"> ➤ Carer's Leave is granted solely for the purpose of taking care of the care recipient named below. A staff member, who has completed 12 months continuous service with the Institute, is entitled to take a total of 104 working weeks unpaid leave for each eligible care recipient . ➤ This Notification of Intention to take Carer's Leave should be approved by your Head of School/Department/Function/Centre, and then submitted to Human Resources Office for final approval and implementation, no later than 6 weeks before the proposed commencement date, in accordance with section 9(1) of the Carer's Act 2001. ➤ Any public holidays, bank holidays or concession days which fall during an initial period of 13 weeks of absence on Carer's Leave, will be added on to the end of the period.
<p><i>Under the Carer's Leave Act 2001, I hereby give notice of my intention to take Carer's Leave for the purpose of taking care of:</i></p> <p>_____</p>
<p>Staff Member _____</p> <p>Dept./Function/Centre _____</p> <p>Commencement Date of Employment _____</p> <p>Periods of Carer's Leave already taken in respect of the Care Recipient (with DkIT) (with another Employer)</p>
<p>Date of application to Department of Social Protection</p>
<p>Pattern of Carer's Leave (Please note that the proposed pattern of leave must be agreed in advance with your Head of School/Department/Function/Centre, and must be in accordance with the Act and the policy of the Institute)</p>
<p>Proposed Date of Commencement of Leave _____</p> <p>Proposed Duration of Leave _____</p> <p>Proposed Cessation Date of leave _____</p>
<p><i>I declare that the information given above is accurate and complete. I also undertake to forward a copy of the decision(s) on my application(s) for Carer's Leave to Human Resources Office, immediately on receipt from the Department of Social Protection.</i></p>
<p>Signed: _____ Staff Member Date: _____</p> <p>Approved: _____ Head of School/Function/Centre Date: _____</p> <p>Approved: _____ HR Manager Date: _____</p>
<p><i>Please note that Carer's Leave may be terminated if it is not used for the stated purpose. Any employee abusing this leave may be subject to serious disciplinary action up to and including dismissal</i></p>