

# **Carers UK briefing on Government's consultation: 'Making flexible working the default'**

## **Summary**

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The Department for Business, Innovation and Industrial Strategy (BEIS) is currently [consulting on proposals to reform flexible working regulations](#). The consultation is called "Making flexible working the default".

- We think the consultation provides an important opportunity to secure beneficial changes for unpaid carers who are juggling their caring responsibilities alongside paid work ('working carers').
- This briefing provides key details about the consultation and why we think this is an important opportunity to further support working carers.
- We also want to encourage other organisations to respond positively to the consultation and have detailed the responses we have already submitted to the consultation.
- The deadline for responding to the consultation is **11:45pm on 1 December 2021**.

*If you have any questions about the consultation, please do not hesitate to contact John Perryman, Senior Policy and Public Affairs Officer, Carers UK ([john.perryman@carersuk.org](mailto:john.perryman@carersuk.org)).*

## **About the consultation**

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The consultation the Department for Business, Innovation and Industrial Strategy is currently running, 'Making flexible working the default', sets out five proposals for reshaping the existing regulatory framework so that it better supports the objective of making flexible working the default. The Government's stated intention is to better support employees to start the conversation about contract changes, and employers to respond.

Specifically, the consultation considers the following five questions:

- making the Right to Request Flexible Working a day one right.
- whether the eight business reasons for refusing a Right to Request Flexible Working all remain valid.
- requiring the employer to suggest alternative working arrangements if they reject a Right to Request Flexible Working
- if the length of time employers have to respond to a Right to Request Flexible Working is appropriate.
- and if requesting a temporary flexible working arrangement should be encouraged.

*You can access the consultation documents in full, here:*

<https://www.gov.uk/government/consultations/making-flexible-working-the-default>

## **Responding to the consultation:**

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We want to encourage others to submit responses to the consultation. We have provided the answers we have already submitted to BEIS's consultation in the section below in case you find these a helpful guide.

- You can find out more about the consultation and access the relevant documents here: <https://www.gov.uk/government/consultations/making-flexible-working-the-default>
- You can submit your response to the consultation here: <https://beisgovuk.citizenspace.com/lm/flexible-working/>
- Alternatively, you can email your response to [labourmarketparticipation@beis.gov.uk](mailto:labourmarketparticipation@beis.gov.uk)
- The consultation closes at **11:45pm on 1 December 2021**.

## **Carers UK's views on flexible working:**

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Supporting carers to manage the sometimes difficult job of balancing work with caring responsibilities through flexible working options would deliver real benefits to employers as well as helping individuals and their families.

When carers give up work, employers lose workers with valuable skills and experience and often incur high recruitment costs to replace lost workers. The benefits to employers of having 'carer friendly' policies such as flexible working and leave can include reduced levels of stress, reduced sickness absence, lower recruitment and training costs, increased staff morale and productivity levels.

Young people can find it difficult to transition from education to training and work while balancing an ongoing caring role. Older people can also struggle to stay in work as their caring responsibilities increase, or to return to employment after caring. Flexible working options will help employers with both recruitment and retaining staff.

Making the right to request flexible working a day one right would greatly benefit carers of all ages in their ability to take up employment opportunities and to make decisions about career choices.

Not being able to request this flexibility until 26 weeks may mean that many carers are simply unable to explore new work opportunities – especially carers who may have been out of the labour market for a while and face the uncertainty of how they could manage work and caring.

From an employer's perspective, in a tight labour market, offering the day 1 right to request is an attractive recruitment tool and likely to benefit overall employee engagement, health and wellbeing.

It is worth noting that a number of [Carer Confident](#) employers (and [Carer Positive Employers](#) in Scotland) already offer this within their organisations and highlight it as one of the ways in which they provide a supportive and inclusive workplace for staff with caring responsibilities, alongside other measures such as paid leave for carers.

More and more employers now recognise the benefits of providing flexible working options, and it makes sense that, in promoting a fair and level playing field for all employees, this flexibility is on offer from day 1.

## **Carers UK's responses to the consultation:**

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**Question 1: 'Do you agree that the Right to Request Flexible Working should be available to all employees from their first day of employment?'**

### **Strongly Agree**

*We strongly agree that the Right to Request Flexible Working should be available to all employees from their first day of employment.*

*Providing unpaid care can be unpredictable and thousands of people across the UK take on new caring responsibilities on a daily basis. A significant proportion of unpaid carers juggle their caring responsibilities with unpaid work; Carers UK's latest estimate is as many as 7.7 million<sup>1</sup> people are now juggling work and care. Carers tell us that the most important things to enable them to juggle both work and care are (1) Flexible working offered by their employer; (2) Supportive line manager/understanding employer; (3) Paid Carer's Leave of between 5-10 days per year.<sup>2</sup>*

*Around one third of unpaid carers start caring every year<sup>3</sup> and many people will find that they take on new caring responsibilities in the first six months of taking on a new job. Equally they may find their existing caring responsibilities become more intense within the first 6 months of their employment – in both situations, having a day one right to request flexible working would be invaluable. A day one right to request flexible working would also support carers who juggle work and unpaid care to advance their careers, apply for or return to a job, or take on more responsibility at work. We know that many carers do not go for promotions or look to advance their careers as they worry that they won't be able to access the same level of flexibility as they have in their current role. A day one right would help to break down these barriers and give carers peace of mind.*

*Providing a day one right to request flexible working would also confer benefits for employers. Many member organisations of our Employers for Carers business forum offer a day one right to request flexible working and recognise the benefits of this for both employer and employee. For example, we are aware of employers who offer this within the financial services, utilities and public sector. In addition, Centrica has estimated that the introduction of carer friendly policies, including flexible working arrangements, has saved around £1.8 million per annum in terms of preventing unplanned absences and presenteeism and a further £1.3 million per annum in retention savings.<sup>4</sup> Most recently, the NHS, which includes many varied and complex working arrangements, now also expects its relevant employing organisations to consider a new enhanced day one contractual right to request flexible working<sup>5</sup>.*

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<sup>1</sup> Carers Week (2020) 'The rise in the number of unpaid carers during the coronavirus (COVID-19) outbreak'

<sup>2</sup> Carers UK (2019) 'Juggling work and unpaid care: a growing issue'

<sup>3</sup> Carers UK (2001) It Could Be You – A report on the chances of becoming a carer

<sup>4</sup> <https://www.centrica.com/news/carers-uk-and-centrica-announce-new-partnership-improve-lives-carers>

<sup>5</sup> <https://www.nhsemployers.org/news/flexible-working-nhs>

**Question 2: 'In your organisation, do you currently accept requests for flexible working arrangements from employees that have less than 26 weeks continuous service? Please answer this question from the perspective of the employer.'**

**Yes**

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**Question 3: 'Given your experiences of Covid-19 as well as prior to the pandemic, do all of the business reasons for rejecting a flexible working request remain valid? Please answer this question from the perspective of the employer.'**

**No**

*As an employer, we do not think that all of the business reasons for rejecting a flexible working request remain valid. We believe it is important that employers explore how jobs can be designed to enable flexible working and want to see that the default is towards offering a form of flexible working – with both the employer and the employee looking for a solution through different job designed options.*

*In particular, we disagree that 'negatively affecting individual quality' and 'negatively affecting individual performance' remain valid reasons to refuse a request, where this refers to the individual. As we have seen during the COVID-19 pandemic, where the vast majority of employers have had to work on a much more flexible basis, many employers say the last 20 months have had a positive impact on their productivity. We also have anecdotal evidence from employers we work with (through our Employers for Carers network), that implementing more flexible working practices has provided further opportunities for their employees, and made them less focussed on time inputs, and more on outputs and performance.*

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**Question 4: 'Do you agree that employers should be required to show that they have considered alternative working arrangements when rejecting a statutory request for flexible working?'**

**Strongly Agree**

*We strongly agree that employers should be required to show that they have considered alternative working arrangements when rejecting a statutory request for flexible working.*

*Having this requirement will ensure that employers considered alternative working arrangements and think more broadly about job design.*

*This provision would also make all parties (employees, line managers, employers) think harder about requests, challenging the 'no by default' mindset. It would also help employees and employers find an arrangement that works well for all by encouraging more conversations between employees and line managers about flexible working arrangements.*

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**Question 5: 'Would introducing a requirement on employers to set out a single alternative flexible working arrangement and the business ground for rejecting it place burdens on employers when refusing requests?'**

**No**

*We do not see that introducing a requirement on employers to set out a single alternative flexible working arrangement and the business ground for rejecting it would place burdens on employers when refusing requests. We think such a requirement would be reasonable and proportionate, as it asks business to set out a single alternative, not a range.*

*Introducing this requirement would help employers to think more deeply about the decisions they make and is something good quality employers should be doing already as good practice. Indeed, employers should be thinking about job design when considering flexible working requests. Doing so could also improve retention of employees by having a constructive dialogue between employer and employee.*

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**Question 6: ‘If you answered yes to question 5, would this requirement have an effect on the time taken by employers to handle a request?’**

***Not applicable, as we answered ‘no’ to question 5.***

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**Question 7: ‘Do you think that the current statutory framework needs to change in relation to how often an employee can submit a request to work flexibly?’**

**Yes**

*We do strongly feel that the current statutory framework needs to change in relation to how often an employee can submit a request to work flexibly.*

*Providing unpaid care can be unpredictable and an estimated 6,000 people across the UK take on new caring responsibilities on a daily basis.<sup>6</sup>*

*With millions of people caring and working simultaneously, and caring situations often arising or changing unexpectedly, many people will find that they take on new, or more intense, caring responsibilities at least once in a twelve month period. We know of many working carers who have experienced such changing situations so within a year so having the opportunity to make a request more than once would be invaluable in these circumstances.*

*Since we know from carers that flexible working often helps keep them in employment, reduces stress and increases wellbeing at work this statutory framework would make sense for the employee as well as the employer in terms of supporting their wellbeing. We know that this kind of approach already works informally. We recognise that the number of approaches might have to be proportionate.*

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**Question 8: ‘Do you think that the current statutory framework needs to change in relation to how quickly an employer must respond to a flexible working request?’**

**Yes**

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<sup>6</sup> Carers UK (2001) It Could Be You – A report on the chances of becoming a carer



*We think the current statutory framework should change and employers should have to respond more quickly to requests. This would recognise the needs of many employees who are juggling paid work and unpaid care, as well as being in the best interests of both employers and employees (as well as their teams).*

*As our evidence outlines above, providing unpaid care can be unpredictable – whether this is regarding taking on a new caring role or someone’s caring role coming to an end, or due to a change in someone’s caring circumstances. For example, carers often find that the amount or intensity of the care they need to provide fluctuates, or they need to provide different types of care that are more time consuming – an example there could be someone caring for someone with a mental health problem who has a difficult mental health episode, or someone who suddenly has to provide palliative care at the end of someone’s life. In these circumstances, an employee may make a request for flexible working. It is in the interests of both the employer and the employee to find a solution to these situations as soon as possible.*

*Note, these examples are different from carers who face a sudden crisis and need to change their working pattern immediately, in which case they would use ‘time off for emergencies’ on a short-term basis.*

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**Question 9: ‘If the Right to Request flexible working were to be amended to allow multiple requests, how many requests should an employee be allowed to make per year?’**

**Three requests**

*We think that employees should be allowed to make multiple requests a year, but this should be capped to three requests per annum.*

*As any successful request for flexible working would result in a contractual change between the employer and employee, we feel this would be proportionate and strike the right balance.*

*Many employers have found that adopting a Working Carers Passport<sup>7</sup> has helped this process overall and we would recommend their adoption as a useful tool to support working carers.*

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**Question 10: ‘If the Right to Request flexible working were amended to reduce the time period within which employers must respond to a request, how long should employers have to respond?’**

**More than one month, less than two months**

*We do agree that requests need to be responded to and resolved in a timely fashion to meet employees’ needs.*

*We believe that between one and two months is an appropriate and realistic timeframe in which employers must respond to requests for flexible working. By respond, we mean that the request for flexible working is successfully resolved between the employer and*

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<sup>7</sup> <https://carerspassports.uk/>

employee. In many situations we would hope that adjustments could be made sooner, but we don't think this should be mandated. For more urgent situations, other types of statutory leave would be available (e.g. time off for emergencies).

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**Question 11: 'Are you aware that it is possible under the legislation to make a time-limited request to work flexibly?'**

**Yes**

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**Question 12: 'What would encourage employees to make time-limited requests to work flexibly? Please provide examples.'**

*While Carers UK is aware that it is possible under the legislation to make a time-limited request to work flexibly, we know that many employers are not.*

*There are many reasons why an employee who is juggling paid work and unpaid caring responsibilities would ask for a time-limited request for flexible working. These include:*

- *Someone who is providing palliative care at the end of someone's life*
- *If the person someone is caring for is suddenly discharged from hospital and they will have more demanding care needs for a short period, than they did before they went into hospital*
- *A short-term period of intense care e.g. cancer treatment*
- *If the person the employee cares for has to move into a care home, or to sheltered accommodation (or has any change in the residence) – as this can be highly disruptive on a short-term basis*
- *When someone takes on a new caring role e.g. a parent dies and they must care quickly for the other parent whilst putting in place longer term care arrangements at home – often they are unaware of the level of care needed and this can be very traumatic*
- *Any transition periods for unpaid carers or the people they care for*

*We feel that much could be done to raise awareness of time-limited requests for flexible working – in relation to both employers and employees. We recognise that time-limited requests can be beneficial to employers and employees alike – for example, they can be less complicated to arrange, they are often less complex requests for employers to deal with, and less risky for employees too (e.g. they could agree to a short trial period to test out how a new arrangement would work on an informal basis).*

*We believe that there is an important role here for accompanying guidance to the legislation that explains clearly to employers and employees about what time-limited requests may look like and how they may help. Employers should also be encouraged to ensure that they communicate their flexible working policies and options clearly and regularly so that employees and managers are aware of them. From evidence from carers that we have seen over recent months and years at Carers UK, many have been unaware of (statutory or contractual) flexible working policies and arrangements that could have helped them which suggests that these have not been communicated clearly within their workplace or understood or implemented by line managers.*

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**Question 13: 'Please share your suggestions for the issues that the call for evidence on 'ad hoc' and informal flexible working might consider.'**

*We are supportive of 'ad hoc' or more informal flexible working arrangements and believe this would help to create a more competitive employment market, and support employees (particularly women and unpaid carers). From our experience of working with our Employers for Carers (EfC) member organisations we are aware that such 'ad hoc' or more informal flexible working arrangements are used a lot and are much valued by employees. We are also aware that such flexibilities may often be 'bite size' and involve relatively minor time adjustments (i.e. a matter of 30 minutes or an hour here and there, which can be accommodated in shift patterns as well as office based work). We know from our EfC members that even comparatively small changes can make a real, tangible difference both for the employee (in being able to continue to work and care) and their employer (in terms of improved staff retention and productivity).*

*As we have mentioned before, a growing number of employers are adopting a Working Carers Passport<sup>8</sup> for longer term carers to discuss and work through these informal arrangements.*

*Any call for evidence should consider the following issues – in relation to those juggling paid work alongside unpaid care. These are all circumstances where flexibility in terms of work time, and where possible, location could be used to avoid making larger, more disruptive changes while also having the benefit of promoting a more supportive and inclusive workplace culture:*

- **Providing personal support**, such as keeping an eye out for someone, keeping them company and staying in touch.
- **Providing practical support**, such as making meals, going shopping for them, laundry, cleaning, gardening, maintenance and other help around the house.
- **Helping with official or financial matters**, such as helping with paperwork, dealing with 'officials' (also over the phone and the internet), paying bills/rents/rates, collecting pension/benefits.
- **Providing personal and/or medical care**, such as collecting prescriptions, giving medications, changing dressings, helping them move around the home, getting dressed, feeding, washing, bathing, using the toilet.
- **Making practical arrangements**, such as dealing with social services or the voluntary sector, hospital discharge, moving someone into a care home, making home adjustments or adaptations.
- **Attending appointments**: Caring may also involve accompanying someone to hospital, the GP, optician, dentist, chiropodist, physiotherapy, mental health assessments or other recurring appointments (such as with the bank) which usually occur during normal working hours. If such appointments are recurring and predictable, this need for flexibility might in many cases be met through flexible working.

## **Contact us**

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For more information, contact **John Perryman, Senior Policy and Public Affairs Officer** (T: 07481 038 183 / E: [john.perryman@carersuk.org](mailto:john.perryman@carersuk.org)).

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<sup>8</sup> <https://carerspassports.uk/>



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