

Carer's Rights



In this toolkit we look at the legal rights of adult carers as defined by the 2014 Carer's Rights Act and identify what additional rights carers have for support.

Who is considered a carer?

A carer in this context is not a care provider by profession, but a member of the public who helps another person in their daily routines and is not paid for this. This could include friends, family members, neighbours, or your partner.

You are also recognised as a carer if you are the parent or guardian of a disabled child. There are different laws, and therefore different rights, for carers of children; we have covered these in [a separate toolkit](#).

Caring can take up different amounts of time, depending on the needs of the person needing the care. The key thing is that you help them to do everyday things, that are necessary for someone's wellbeing but that the person is not able to do themselves. Examples include:

- shopping
- cooking or organising meals
- dressing
- personal hygiene

driving someone to hospital appointments or the shops

- being present regularly/ supervising them for emotional support or their safety

Why do carers need specific rights?

Caring is a natural and often rewarding thing to do. The help provided by friends and family also saves the state billions of pounds every year. It is also hard work and can lead to the carer neglecting their own needs. Carers often give up work or education, which in turn can cause financial worry. Caring can also be isolating or lonely. Therefore it is right and proper that those who make the decision to provide care to others, so the state does not have to, are rewarded with rights that allow them to be financially secure and properly supported.

I think I am a carer, what do I do?

If you have recognised yourself in the description above, there is support out there for you. Thanks to the Care Act 2014 (see below), there's no minimum amount of care you provide before you are entitled to support, anyone can ask for an assessment. The first thing to do is to have a think about any worries you have or support you would like. In this

toolkit, we have outlined your legal rights, so you can go on to find the help you need to address your concerns.

Support from local authorities

England and the Care Act 2014

This section applies to carers caring for those who live in England. Please see below for variations in Scotland, Wales and Northern Ireland.

The Care Act was published in 2014 and came into force in April 2015. The Act covers many aspects of care, including an update to the legal rights of unpaid carers. Prior to this date, carers of adults had a right to ask for support, the carer had to be providing what was deemed as substantial care on a regular basis. Local authorities used their discretion about whether they provided support or not and hence there were significant variations across areas. The act was developed to ensure that authorities are legally obligated to assess a carer's need for support and covers more people.

The local authority can help address any aspect of a carer's life that has been or is being impacted by providing unpaid care to another person. It should take into account both your needs and your This could include:

- Arranging someone else to provide care some or all of the time, based on whether you are able or willing to continue providing whatever care you give
- Help returning to work or study
- Having more opportunities to socialise

It is likely that your needs will be closely linked to those of the person you are caring for. Therefore, it may be helpful for you both to undergo an assessment at the same time.

The process for applying for help from a local authority is as follows:

1) Assessment

You can start this process by contacting the adult social services department at your local council, or via referral from other services, such as hospitals. This will identify your needs and your wishes, as described above. It is important you are honest about how caring affects you to get the full support you need; you should not be criticised or judged for asking for help.

2) Eligibility

A carer will be eligible for support by the local authority if, based up on the assessment, they meet the eligibility criteria and the person they care for resides in the same local area.

In essence, whether you are eligible relies on a yes to 3 questions

- **Are your needs a result of providing necessary care?** – i.e. does the person need your care and is that caring role the root cause of any issues
- **Does your care have an effect on you?** – does the care effect your health or stop you doing certain things?
- **Is there (or is there likely to be) significant impact on your wellbeing?** - by being prevented from doing things listed from question number 2, is your wellbeing affected? Importantly, the Care Act states that you are best placed to assess your wellbeing, and there is no legal definition of "significant", so make sure you are as open as possible about your needs and how they affect you.

3) Support Planning

The carer will agree a support plan with the local authority that helps to support them with their needs. The nature of this support can vary significantly, but examples include providing a cleaner for the housework, a gym membership to maintain the carer's health, or provision of technology that enables the carer to stay in contact with family and friends. The ideas could also include things to help the person who needs caring, if it would make your job as a carer easier, such as hand rails or meal delivery.

In some instances the best means of support is for the council to provide replacement support for the person being cared for. This could be a temporary measure to give the carer a break or more permanent.

4) Personal Budgets

When you agree your support plan, you will be allocated a personal budget. It will detail the cost of providing you with support, the amount that the council will cover and, if applicable, the cost that the carer is covering. You can ask that the services be arranged by the local authority or that the money be paid to you to arrange services by yourself (called direct payments).

It is unusual for an authority to charge a carer for the support they are receiving, but if they chose do so the carer will only be charged following a financial assessment that declares them able to pay. The carer will also not be charged for any care the authority provides directly to the person being cared for – this person will have a separate financial assessment.

Importantly, the Care Act states that any arrangements you make should be transferable if you or the person you care for move to an area covered by a different local authority.

Following an assessment, you may be judged as not in need of support. You should be given reasons why in writing, plus advice on how to reduce your needs. You can appeal this decision via the individual councils' complaints service, or to the Local Government Ombudsman if you not satisfied with their response. You can also go through the same complaints process if you are unhappy with the support provided after assessment, or contact the Care Quality Commission.

If you think the council behaved unlawfully (for example, refused to assess you), you can take the council to court in a process called a judicial review. This will

require legal advice and must start within 3 months.

Carer's UK have made a detailed guide to the local authority process, which you can download from their website here.

Wales:

The relevant legislation for a Care Assessment in Wales is the Social Services and Wellbeing Act (Wales) 2014. It gives you the right to an assessment as soon as the council becomes aware of the fact you might need support. You can also ask for one through your local council's Information, Advice and Assistance service. The process for the assessment and the eligibility criteria are similar, as is the kind of support you might be offered. Further information can be found in the Carer's UK [guide for Wales](#).

Scotland:

In Scotland, you must request a carer's assessment from the social work department of the local council of the person you care for. You can also have your needs considered when the person you care for has a community care assessment of their own needs; this may be called a Single Shared Assessment and may be carried out by a different department. The result of an assessment

of your needs should focus on "outcomes", which means it should identify specific services that can address your needs, and these can be similar things to what we have identified in detail above. You cannot be charged for any service identified to support your care role in Scotland, but you can be charged for services identified to help you via the community care assessment of the person you care for; you can ask for this to be reconsidered. You can find further information in the guide for [Scotland from Carer's UK](#).

Northern Ireland:

In Northern Ireland, you have a right to a carer's assessment which takes into account the impact that caring is having on your life, rather than the amount of care you provide. You will need to contact social services department at the local trust of the person you care for to get the assessment process started. The type of service you can be provided with is very similar to those described above for England. For further information, please see Carer's UK's [guide for Northern Ireland](#).

Young Carers

The Care Act 2014 and similar Acts in other areas of the UK are specifically designed to cater for

and protect the needs of adults caring for other adults. Within this remit, the support provided to a carer will ensure that their parental responsibilities are considered and that the situation is avoided whereby children are required to provide care.

The rights of young carers, i.e. someone under the age of 18 years old who is providing care for another person, are outlined in the Children and Families Act 2014 in England, the Children (NI) Order 1995, the Social Services and Wellbeing Act (Wales) and the Children (Scotland) Act 1995. For example, the Children and Families Act requires local authorities to carry out a 'Young Carer's Needs Assessment' and included within this, is an assessment on whether it is appropriate for a young carer to continue providing support in light of additional needs and risks as children.

Further Information:

NHS: <https://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/carers-rights-care-act-2014.aspx>

Government factsheet number 8: <https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets/care-act-factsheets#factsheet-8-the-law-for-carers>

Employment rights

There is no separate act covering employments rights for carers, but there are relevant sections within the Employment Rights Act of 1996. This could help a carer to continue work alongside caring if they wish or are able. It is also an aspect of your life that should be considered during a formal assessment with a local authority (see above) if you choose to have one.

1. Flexible working hours

If you have been permanently employed by an organisation for 26 weeks (6 months) you are legally entitled to request permanent changes to your working hours once per year.

Flexible working arrangements could include:

- Maintaining your normal working hours, but adjusting the time or days in which you work.
- Working from home at particular times.
- Job-sharing whereby you reduce your hours to part-time and another employee covers the other hours.

If you would like to temporarily alter your working hours, you may do so by an informal route such

as speaking with your manager. However, for more permanent requests you will need to put this in writing to your employer. You are not required to tell your employer that being a carer is your reason for requesting flexible hours; however, in some cases it may help to come to a reasonable agreement on a suitable adjustment.

All employers must consider a flexible working request and can only reject a flexible working request if there are sound business arguments for doing so. This could include, but is not limited to:

- The adjustment would incur extra cost for the employer.
- It will be difficult to meet the demands of your employment outside your normal working hours.
- Redistributing your workload amongst other staff may be difficult, or your employer cannot take on any more staff.

Your employer must provide the reasoning for rejecting a flexible working request and you are able to challenge the decision. It is always best to do so directly with the employer first and if this does not work, you can suggest a conciliation. This is process of involving a third-

party organisation to mediate discussions between an employee and employer to find a resolution.

2. Time off for dependents

In the case of certain emergencies, a carer would be allowed to take a reasonable amount of time from work in order to take action. 'Reasonable time' allows the carer to take as much time as needed to resolve the situation, but is usually around 1 or 2 days.

There are four types of emergencies relevant for adult carers:

- 1) A dependent falling ill and requiring assistance.
- 2) Arrangements need to be made for provision of care for an ill or injured dependent.
- 3) Death of a dependent.
- 4) Unexpected disruption to the care arrangements for a dependent.

The ability of a carer to take time from work depends on the relation of the 'dependent' (i.e. the person being cared for).

- If the dependent is a spouse, child, parent, or person residing within the same household then the carer is able to take time from work in all of the above emergencies.

- If a dependent is someone else who relies on the carer, then time can be taken for emergencies 1 and 2.
- If the dependent is someone else who only requires the carer to make their care arrangements, time can be taken off work in emergency 4.

The ability to take time off for a dependent is a legal right for carers, providing that they have informed their employer.

3. Other relevant rights

- 1) Paid leave - using your annual leave flexibly may allow you to balance the needs of the person you care, especially if the caring is just short term
- 2) Unpaid leave - you may be able to negotiate a period of time of work unpaid as needed
- 3) Career break - temporary unpaid absence from work (during this time you could be eligible for carer's allowance - see next section)
- 4) Parental rights - there are specific employment rights for parents and guardians of children who are ill. This is a topic of another toolkit [here](#).

Discrimination

In addition to your rights to take time off, carers are also protected under discrimination law, so you cannot be treated less favourably than others because of your caring responsibilities. Further information on what to do if you think this is happening to you can be found on the Carer's UK website [here](#).

Further information:

NHS: <https://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/employment-rights-for-carers-flexible-working-unpaid-leave.aspx>

Carers UK: <https://www.carersuk.org/files/helpandadvice/2613/factsheet-uk1031-your-rights-in-work.pdf>

Financial Support

1. Carers Allowance

Carer's allowance is the UK state benefit for those caring for another person more than 35 hours per week. This means that it is available to carer's in England, Scotland, Wales and Northern Ireland.

In order to claim carer's allowance, the person you are caring for must receive some form of benefit for personal care. This must be one of:

- The daily living component of Personal Independence Payment (PIP)
- Disability Living Allowance (DLA) at the middle or high rate of care.
- Attendance allowance (AA)
- Constant Attendance Allowance of the normal maximum rate, which is paid with a War Disablement Pension or Industrial Injuries Disablement Benefit.
- Armed Forces Independence Payment

The hours spent caring can include:

- The time you have spent physically caring for someone.
- The time in which you have

been overseeing someone e.g. accompanying them to ensure they do not come to any harm.

- The time taken to do practical tasks for the carer e.g. cooking or cleaning
- The time required to prepare for the person or spent after caring e.g. preparing where they will sleep, or cleaning up after they have visited.

The 35 hours spent caring must be for one person only, as you can only claim one amount of carer's allowance even if you are caring for more people.

As the hours spent caring can be at any time of the day, it is possible for someone to spend 35 hours caring for another whilst working. You can claim carer's allowance if you are working, but there is a limit to the amount you can earn. Carer's allowance is also a taxable means of income, therefore, if you are working then the amount you receive could be reduced after tax.

The 'overlapping benefit' rule means you cannot claim carer's allowance if you are receiving a greater amount from one of the following benefits:

- State Pension
- contributory Employment and Support Allowance

- Incapacity Benefit
- Maternity Allowance
- Bereavement or widow's benefits
- Severe Disablement Allowance
- contribution-based Jobseeker's Allowance

You can however claim 'underlying entitlement' to carer's allowance, which means your normally eligibility to carer's allowance will be factored into your means-tested benefits.

2. Other benefits

If your income is reduced because you are caring for others, you may be able to make a claim for other benefits. Citizens Advice will be able to advise you on about maximising your income whilst caring; you can contact them here: <https://www.citizensadvice.org.uk/>.

3. Carers credit

Carers credit is a scheme that fills gaps in your National Insurance record if you care for someone for 20 or more hours a week. When someone works, they pay national insurance payments when they earn over a certain amount. These then add up over the years to make a record of how long you've

worked, which in turn determines the amount of State Pension you get paid.

Carers credit fills any gaps to take into account the fact that caring will prevent you from working as much as you otherwise could, perhaps reducing your income to below the level needed to pay national insurance contributions.

You are eligible if you receive Carer's Allowance, if the person you care for is eligible for disability benefits or you can apply separately via a health or social work professional.

Further information:

Carers UK: <https://www.carersuk.org/help-and-advice/financial-support/help-with-benefits/carers-allowance>

NHS: <https://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/carers-allowance.aspx>

Government information on Carer's Allowance <https://www.gov.uk/carers-allowance>

Government information on Carer's credit: <https://www.gov.uk/carers-credit>

Further Questions

The following guide from Carer's UK provides a good insight to all you need to know as a carer living

in England, Wales, Scotland or Northern Ireland: <https://www.carersuk.org/help-and-advice/get-resources/looking-after-someone>

If you have any further questions about carers rights, then you can contact our Patient Advocacy team. They are available Monday to Friday from 9:00am - 5:30pm and can signpost you to the right services and information for your area.

If you would like to speak to them, you can:

- Call our office line on 01905 755977
- Send them an email at advocacy@leukaemiacare.org.uk
- You can also call the help line, free of charge on 08088 010 444. The team will pass your enquiry onto the Patient Advocacy team.

Please note that our Patient Advocacy team are unable to provide:

- Detailed medical advice or recommendations
- Legal advice
- Advocacy for a course of action which is contrary to the aims and objectives of Leukaemia Care

