



Department for  
Business, Energy  
& Industrial Strategy

# Carer's Leave Consultation

Government Response

September 2021



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Any enquiries regarding this publication should be sent to us at: [labourmarketparticipation@beis.gov.uk](mailto:labourmarketparticipation@beis.gov.uk)

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# Introduction

This Government is committed to enabling a high skilled, high productivity, high wage economy that delivers on our ambition to make the UK the best place in the world to work and grow a business. As we build back better from the COVID-19 pandemic, the Government will bring forward measures to ensure the UK has an employment framework which is fit for purpose and keeps pace with the needs of modern workplaces. These measures will increase participation, protect vulnerable workers, take a smarter approach to enforcement of employment law, and build on the strengths of our flexible labour market to support jobs.

Increasing participation will be a central part of the Government's plans to build back better as we learn lessons from the last 16 months. We will legislate to support participation in the labour market including introducing carer's leave, neo-natal leave and pay and extending redundancy protection for new mothers. We are also committed to taking steps to further encourage flexible working and to make it easier for fathers to take paternity leave.

Juggling caring responsibilities and work can be challenging and can limit the participation of unpaid carers in the labour market. Women, who are often still the primary carers within families, tend to be disproportionately impacted. In response to this challenge, a commitment was made as part of the Government's wider agenda on carers in the Carer's Action Plan 2018 to 2020 to consider the question of dedicated employment rights for carers alongside existing employment rights.<sup>1</sup> The 2019 Government manifesto further committed to introducing a week of leave for unpaid carers.

To fulfil this commitment, the Government launched a consultation on carer's leave in March 2020, which recognised that unpaid carers face particular challenges in balancing work and caring responsibilities that may warrant a specific new employment right to time off from work. Evidence suggests that there are around five million people across the UK providing unpaid care by looking after an elderly or disabled family member, relative or friend. Nearly half of unpaid carers are also in work.<sup>2</sup> As a result of the UK's ageing population, we expect the number of people who rely on informal care, and the number of people who provide this invaluable service to continue to increase.<sup>3</sup>

The COVID-19 pandemic has brought unprecedented change to the lives of everyone in the UK. Even more so than before, many individuals and families are balancing work with other responsibilities. In this context, the Government's commitment to creating a new leave entitlement of one week of additional leave for unpaid carers is even more necessary than before.

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<sup>1</sup> Carer's Action Plan 2018 to 2020. Available at <https://www.gov.uk/government/publications/carers-action-plan-2018-to-2020>.

<sup>2</sup> Department for Work and Pensions, Family Resources Survey, 2017/18. Available at <https://www.gov.uk/government/statistics/family-resources-survey-financial-year-201718>.

<sup>3</sup> Brimblecombe et al. (2018), 'Unpaid care in England: Future patterns and potential support strategies'. [online]. Available at: <http://www.lse.ac.uk/cpec/assets/documents/Economics-of-caring-2018.pdf>

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The pandemic has also put huge pressures on businesses. As part of the Government's plan to build back better, we want to enable businesses to create and maintain engaged, diverse, and productive workforces. Employees who feel more in control of their personal and working lives are more likely to be happier and less stressed in work, with better employee health and wellbeing. We recognise that this new right to carer's leave will have some costs to business from employee absence. But we also expect employers to benefit from greater employee loyalty, engagement and motivation, a reduction in staff turnover and recruitment and training costs, increased productivity, and an improved perception of them by their workforce and customers.

We received over 800 responses to the consultation from a range of stakeholders and individuals. We have considered these further, in particular in light of what we have learned during the COVID-19 pandemic and will introduce a new leave entitlement for unpaid carers through legislation when parliamentary time allows. This new entitlement will apply to Great Britain (England, Wales and Scotland), as employment law is devolved to Northern Ireland. The Government will continue to engage and work closely with the Northern Ireland Executive.

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# Section 1: A new right to Carer's Leave

This section sets out a high-level summary of responses alongside the detail of how the new carers leave entitlement will operate. Consultation responses have been considered along with what we have learnt from the COVID-19 pandemic.

**There was clear support across the range of respondents to introduce a new leave right for unpaid carers. Therefore, the Government will introduce such a right for unpaid carers to take up to one week (5 working days) of unpaid leave per year.**

## Who would be eligible?

The consultation sought views on how eligibility for carer's leave might be defined. It considered whether an employee should have to work for a minimum period before qualifying for the leave, whether the right to leave should depend on the carer's relationship with the person being cared for, and whether the person being cared for should have particular qualifying needs.

Having evaluated the consultation responses, the new entitlement to statutory carer's leave will:

1. be available to the employee irrespective of how long they have worked for their employer (a day one right);
2. rely on the carer's relationship with the person being cared for, which should broadly follow the definition of dependant used in the right to time off for dependants – a spouse, civil partner, child, parent, a person who lives in the same household as the employee (other than by reason of them being their employee, tenant, lodger, or boarder) or a person who reasonably relies on the employee for care; and
3. depend on the person being cared for having a long-term care need. This would be defined as a long-term illness or injury (physical or mental), a disability as defined under the Equality Act 2010, or issues related to old age. There would be limited exemptions from the requirement for long-term care, for example in the case of terminal illness.

## What could the leave be used for?

The consultation set out a wide range of examples for when it might be appropriate to make use of a new right to carer's leave. These included providing personal support, helping with official or financial matters, or accompanying someone to medical and other appointments.

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Based on the support for a broad definition of what the leave might be used for we will set out that carer's leave can be used for providing care or making arrangement for the provision of care for a dependant who requires long-term care.<sup>4</sup> While Government does not intend to put strict rules around the length of care need, we maintain that it is important for carer's leave to focus on long-term care needs.

We heard calls in the consultation responses for improvements to existing provisions for parents to take time off work to care for children. The Government believes that the right to take carer's leave is not the appropriate place to address potential changes to parental leave entitlements. The Government will, however, consider changes to different forms of parental leave and flexible working and bring forward proposals when the time is right.

## How can the leave be taken?

The consultation set out two options for how one week of carer's leave per year per employee might be taken – either as a single block of one week, or more flexibly in individual days.

We heard strongly in the consultation responses that there were advantages to carers being able to take the leave in individual days, with more respondents commenting on the advantages of this option (for both employers and employees) than disadvantages. It was evident that this flexible option went much further in meeting the needs of unpaid carers who are balancing employment with caring responsibilities. Whilst there are some disadvantages for employers associated with this option, mainly a greater administrative burden as more leave requests would be made, these did not outweigh the benefits for employees. There are also benefits for employers including a more engaged workforce and less disruption to the business due to the likelihood that employees are off work for shorter periods of time.

As such, the Government will introduce a carer's leave entitlement that is available to be taken flexibly, either in individual day or half days, up to a block of one week.

## How would the leave be requested?

There were mixed responses to whether employees should be required to give notice before taking carer's leave. We saw respondents were roughly split equally between those who supported a requirement to give notice and those who did not. A relatively high proportion of respondents neither agreed nor disagreed. We heard from a number of respondents who supported a notice period that requiring notice was broadly reasonable, but that in emergencies it should not be required.

The Government considers that attaching a notice period to carer's leave is reasonable, given it is intended for planned caring responsibilities and that there is already a separate existing

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<sup>4</sup> This may also include providing care for someone who reasonably depends on the employee for care while their primary unpaid carer is taking respite.

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right to time off for dependants to provide leave in emergency situations which can be taken with no notice.

Based on this, employees will be required to give notice ahead of taking carer's leave. The notice requirement will be in line with that of annual leave, where an employee must give notice that is twice the length of time being requested as leave, plus one day. To enable employers to manage and plan for absences, employers will be able to postpone, but not deny, the leave request for carer's leave. The grounds on which they can do so will be strictly limited to where the employer considers that the operation of their business would be unduly disrupted. Employers will be required to give a counter-notice if postponing the request to take Carer's Leave.

## What evidence would be required?

The consultation suggested that it would be appropriate for employees to self-certify their entitlement to carer's leave. It asked how often they should be asked to do so and what evidence they may be asked to provide to support their application.

The importance of a light-touch, non-burdensome process for employees and employers alike was evident in the consultation responses. Over three quarters of respondents agreed that employees should self-certify their eligibility for carer's leave.

Based on the challenges raised in relation to asking for and managing sensitive personal or medical information relating to a third party, we will not introduce any evidence requirements when an employee self-certifies their entitlement to carer's leave. A false application can be dealt with in the same way as a false claim for sickness absence or any other disciplinary matter.

## Employment Protections

As is the case with other leave entitlements, it is important that employees cannot be penalised at work for making use of carer's leave. The Government will therefore protect those taking carer's leave from detriment. Dismissals for reasons connected with exercising the right to carer's leave will be automatically unfair dismissal.

## Implementing Carer's Leave

The Government is committed to protecting and enhancing worker's rights as we build back better from the pandemic.

Legislation to introduce carer's leave as a day 1 statutory employment right will be brought forward when parliamentary time allows, alongside other measures which will also support unpaid carers. These measures will include making it easier for people to work flexibly by



making it the default unless employers have good reason not to, where the Government is committed to consulting on policy proposals.

## Section 2: Analysis of Consultation Questions

### Response Breakdown<sup>5</sup>

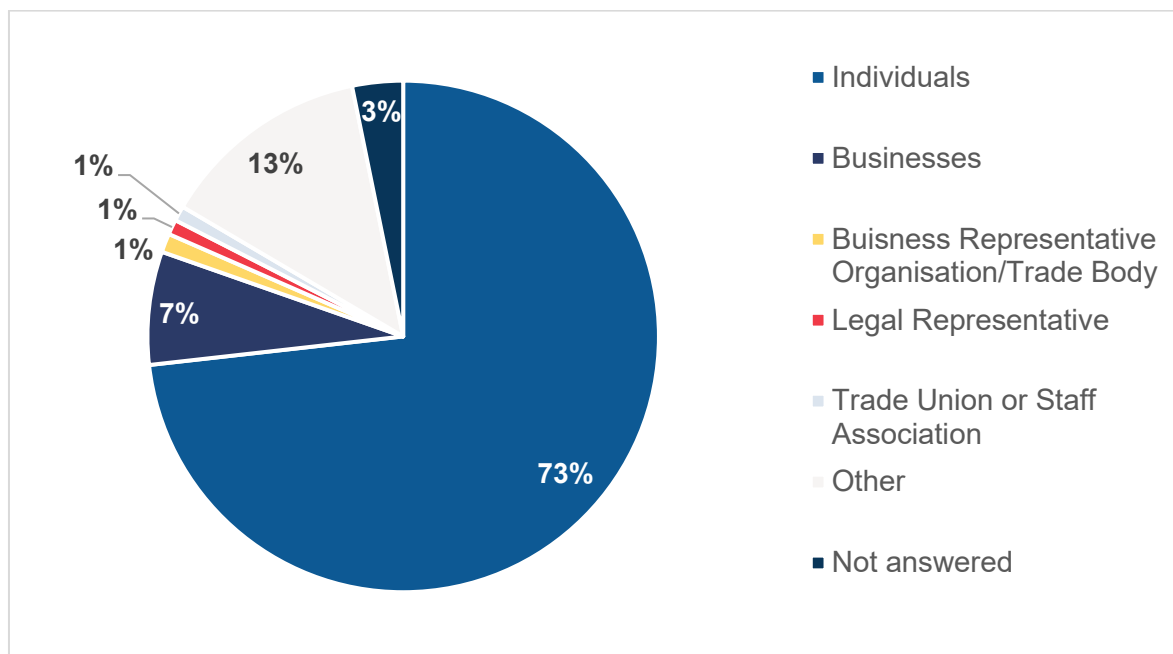
We saw a total of **840 responses** the consultation on carer's leave. The majority of respondents were individuals – 615 in total (**73%**). Of these individuals the majority were in employment – 547 individuals.

Businesses who responded were categorised by size (large, medium, small and micro).

Of those respondents in the 'Other' categories the main sub-groups were Charities or Carers Groups, those who are carers themselves, and Local Authorities or Councils.

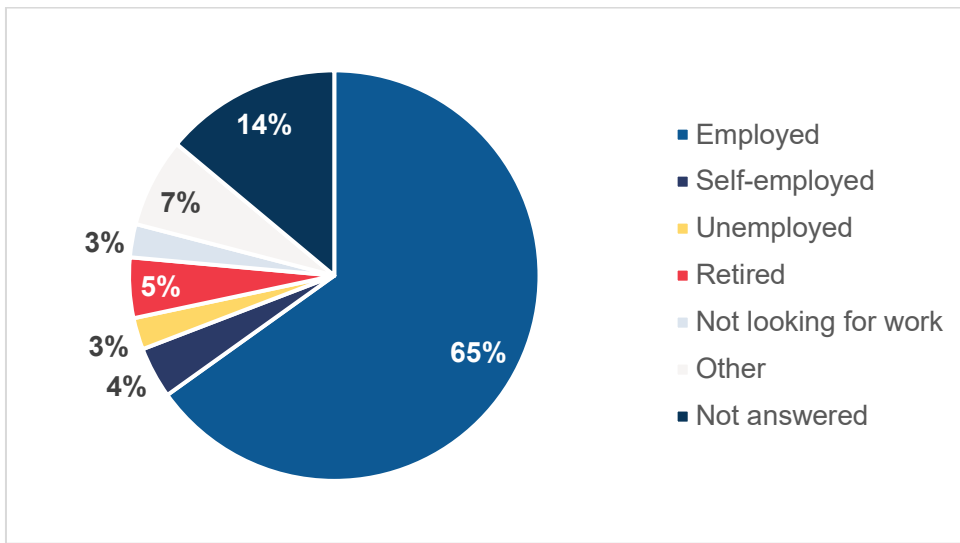
Of the 10 respondents who identified as a Business Representative Organisation/Trade Body, 3 respondents were local County Councils, and 2 respondents were NHS Trusts.

**Figure 1: Breakdown of respondents**

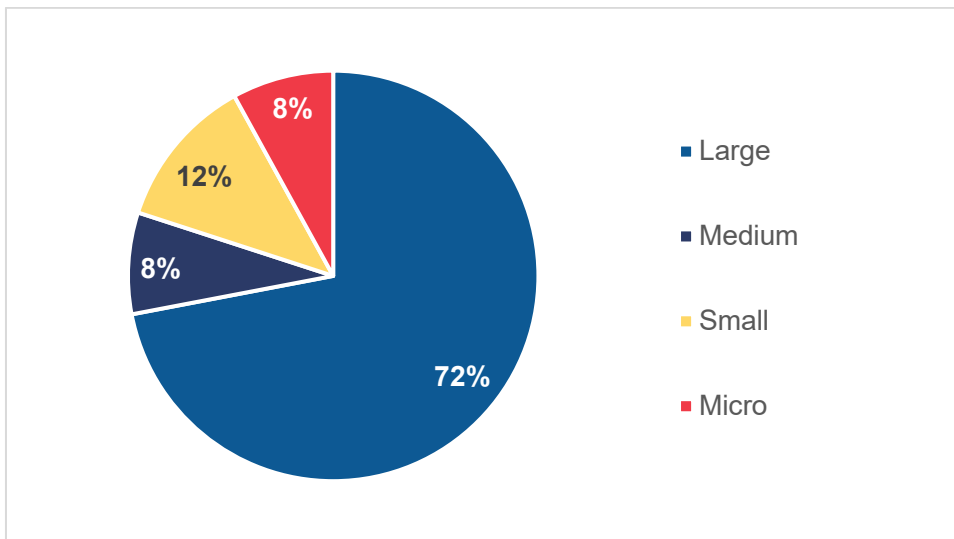


<sup>5</sup> Percentages have been rounded to the nearest percentage point. Not all respondents answered every question. The number of respondents to each question are noted. Where respondents had the option to provide a reason or further detail for their answer the number of respondents who did so is also noted.

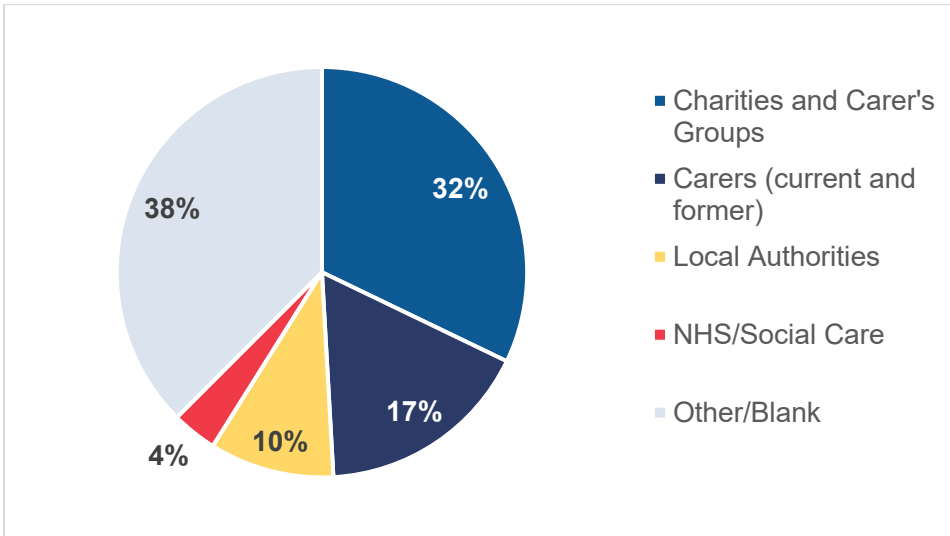
**Figure 2: Breakdown of individuals by employment**



**Figure 3: Breakdown by Business Size**



**Figure 4: Breakdown of 'Other' category**



## Existing employment rights and practices

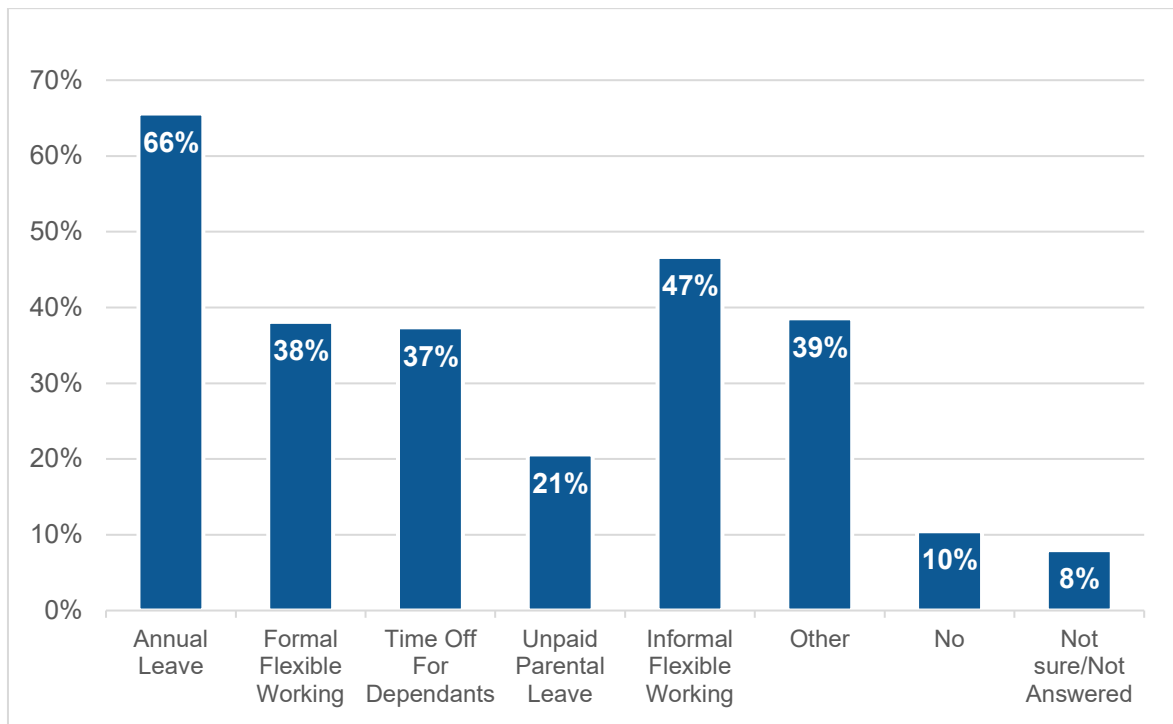
*The consultation set out that there are several existing employment rights and practices that can help people to balance work and other responsibilities. This question sought to understand which specific needs one week of carer's leave could meet and identify gaps in the existing framework it could fill.*

### **Question 1: Have you or your employees used any of the below options to take time out of work to fulfil caring responsibilities?**

There were **790 responses** to this question. **617 respondents** provided details on their experience of these existing rights.

**Figure 5: Use of existing rights for caring responsibilities<sup>6</sup>**

<sup>6</sup> Respondents were able to select more than one answer to this question.



Annual leave was found to be most common leave entitlement used by those currently or previously balancing caring and work. Often this was used for caring because other options were not available (for example, flexible working) or because respondents could not afford to take unpaid leave.

Respondents noted a lack of clarity and a lack of awareness of what support is available for carers across the existing right entitlements. Taking leave for caring often has to be negotiated with an employer which can be difficult.

Some businesses already offer a form of carers leave. This ranged from offering flexibility depending on individual circumstances to offering a paid carer leave entitlement.

## Who would be eligible to take Carer's Leave

*The consultation set out that eligibility to take carer's leave should be based on facts that are clear to both the employee and employer in order to avoid confusion. The proposed new entitlement to carer's leave would apply to employees only, in line with existing employment rights such as the right to time off for dependants.*

### Relationship between the employee and the person cared for

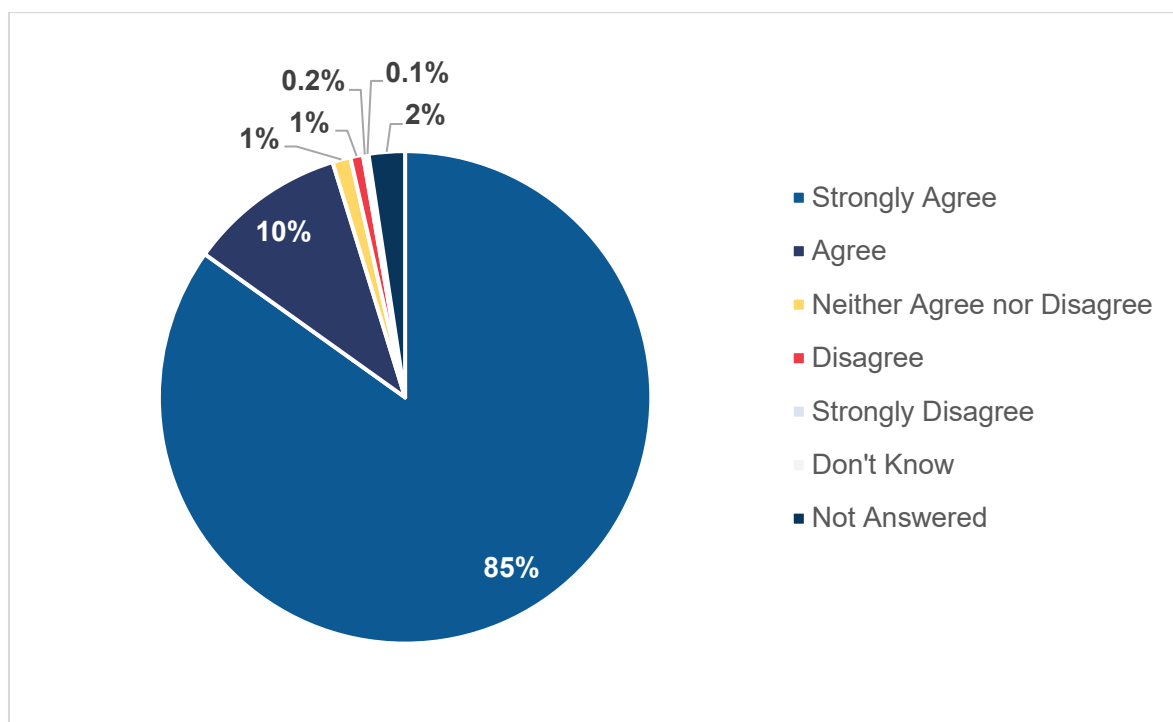
The consultation proposed that the definition for carer's leave should broadly mirror dependant relationships under the right to time off for dependants, meaning a person could take leave to care for:

- A spouse or civil partner
- A child
- A parent
- A person who lives in the same household as the employee (otherwise than by reason of being their employee, tenant, lodger, or boarder)
- A person who reasonably relies on the employee for care

### Question 2: Do you agree that this provides an appropriate definition of caring relationships for the purpose of Carer's Leave?

There were **840 responses** to this question. **630 respondents** provided reasons for their answer.

**Figure 6: Agreement with proposed definition for dependant relationships**



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**95%** of respondents either strongly agreed or agreed that the proposed definition of caring relationships is appropriate for carer's leave. We saw comments from respondents who agreed that mirroring the definition of 'dependant' in the right to time of for dependants would provide consistency for both employees and employers.<sup>7</sup>

### **Question 3: Are there other caring relationships that you think should be considered for inclusion within the scope of Carer's Leave?**

There were **512 responses** to this question.

A wide range of other caring relationships were suggested in response to this question. These included siblings, grandparents, all family members, partners, boyfriends and girlfriends and parents-in-law.

However, it was noted that the inclusion of 'a person who reasonably relies on the employee for care' is sufficiently broad to cover the wide range of caring relationships that were suggested.

Many respondents used this question to express their agreement for the proposed definition and highlight that they did not have any further suggestions or that they were not sure if any further relationships should be considered for inclusion.

#### **Care need**

The consultation proposed restricting carer's leave to those caring for individuals with physical or mental health problems, disability or issues related to old age where the care need is likely to last for a longer period of time (such as six months or a year).

It was also proposed that some specific care needs should automatically qualify for the purposes of carer's leave regardless of their duration. These would mirror those conditions which are automatically treated as a disability from the day of diagnosis under the Equality Act 2010 (Cancer, HIV infection and multiple sclerosis and also automatically apply in situations of terminal illness).

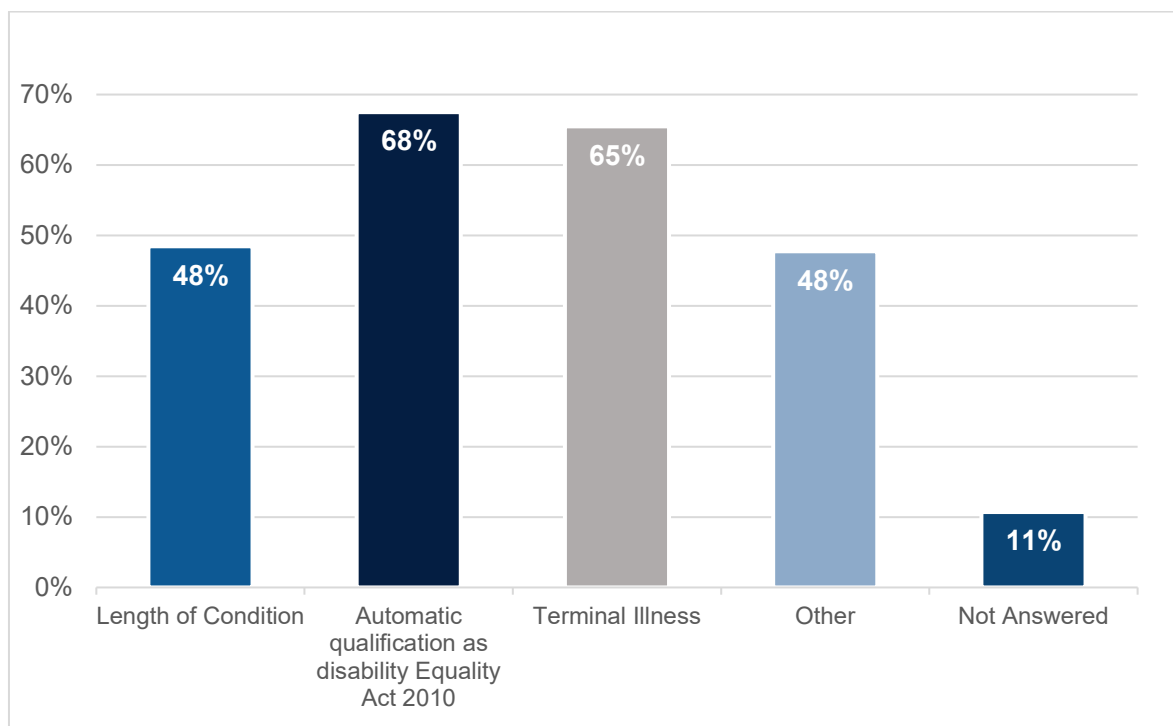
### **Question 4: Which conditions on care need do you believe are appropriate for Carer's Leave?**

There were **750 responses** to this question. **339 respondents** provided an answer when asked to specify the length of care need.

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<sup>7</sup> Carer's UK response to Carer's Leave consultation.

**Figure 7: Appropriate conditions on care need for Carer's Leave**



Over half of respondents were supportive that conditions which are automatically treated as a disability under the Equality Act 2010 and terminal illness qualify for carer's leave regardless of duration.

There were some concerns raised in response to this question on imposing a condition on carer's leave based on the length of time for which someone is in need of care (for example, 6 months or a year). A number of charities put forward reasons why they disagreed with a condition on the length of care need. These included that caring needs are fluctuating, and the length of care need may be difficult to determine from the outset.<sup>8</sup> Concerns were also raised that some disabilities and conditions are difficult to assess, and it is not always known how long care will be required at the point when someone takes on caring responsibilities.<sup>9</sup>

Some responses to the consultation from businesses also reflected that a condition on the length of care need was arbitrary and does not account for the nature of many conditions. A number of businesses highlighted that they do not require a condition on care need in their existing carer's leave policies.<sup>10</sup>

The Government will therefore take a broad approach to defining long-term care need, with limited exceptions from care being long-term.

<sup>8</sup> Carer's UK and MS Society responses to the Carer's Leave consultation.

<sup>9</sup> Rainbow Trust Children's Charity response to the Carer's Leave consultation.

<sup>10</sup> Four large business responses to the Carer's Leave Consultation.

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**Question 5: If you do not believe that any conditions about care need are appropriate, please explain why and comment on any other conditions which might be appropriate.**

There were **219 responses** to this question.

The majority of respondents to this question disagreed that there should be any conditions about care need. Reasons for this included that there are a wide range of caring relationships and activities and that being too prescriptive risks not including this broad spectrum. Respondents noted that all individual care needs are different and as such suggested that carer's leave should be broad and flexible enough to account for this broad range.

### Qualifying Period

The consultation sought views on an appropriate qualifying period for carer's leave. This information was important to help the Government to understand how we can best support employers and employees to plan ahead, whilst recognising that the need for care can arise at any given time.

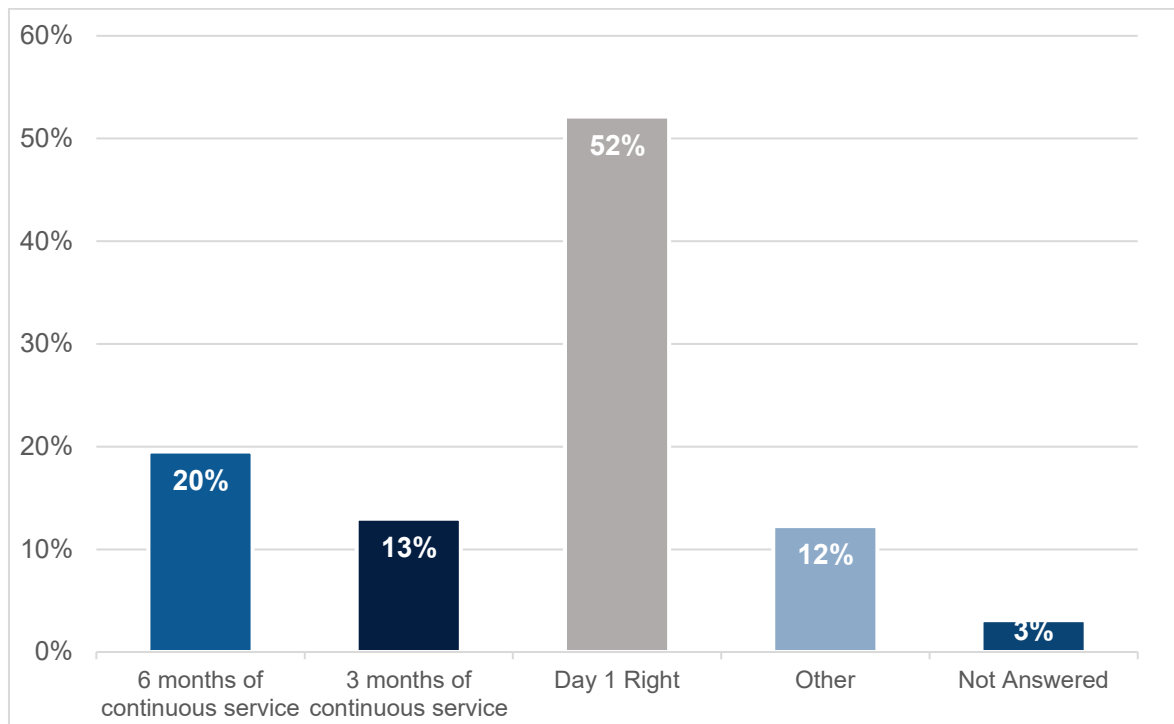
A qualifying period means that an employer would need to be continuously employed by their employer for a given period of time in order to be eligible to take carer's leave. A 'day one right' means that the employee would be able to take carer's leave, with appropriate notice, from the beginning of their employment.

**Question 6: Which qualifying period do you believe is appropriate for Carer's Leave?**

There were **814 responses** to this question. **547 respondents** provided reasons for their answer.



**Figure 8: Support for Carer's Leave to be a Day 1 right**



Over half of respondents supported carer's leave being a day 1 right. A significant number of respondents who favoured a day 1 right identified the fact that caring responsibilities cannot be paused for a period of time while an employee completes a qualifying period. Respondents also suggested that knowing an employer is carer-friendly is important to carers when applying for a new role<sup>11</sup> and that enforcing a qualifying period would not be consistent with the ambition of the policy to help more carers stay in employment.<sup>12</sup>

There was a split in responses from businesses, with **50%** of business respondents suggesting that carer's leave should be a day 1 right. **12%** of businesses said that there should be a 6-month continuous employment requirement, while **18%** said this requirement should be 3 months.

The arguments for requiring a minimum qualifying period included giving employers some protection from the leave being misused, that employees should have passed their probation period and demonstrated their commitment to the employer before being entitled to carer's leave and that a qualifying period would deter people from taking advantage of the leave entitlement for reasons unrelated to caring.

Other suggestions for alternative qualifying periods included that there should be no qualifying period (i.e. a day 1 right)<sup>13</sup>, that the qualifying period could be in line with the company's probation policy or a longer qualifying period of one year. Those who suggested a one-year continuous service qualifying period noted that this is in line with unpaid parental leave.<sup>14</sup>

<sup>11</sup> Carer's Trust response to the Carer's Leave consultation.

<sup>12</sup> Large business response to the Carer's Leave consultation.

<sup>13</sup> Note that 35 respondents who selected 'Other' then specified that Carer's Leave should be a Day 1 right.

<sup>14</sup> Two large business responses to the Carer's Leave consultation.

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## What the leave can be taken for

*The consultation sought views on what carer's leave should be used for, acknowledging that caring comprises of a wide range of activities. The consultation therefore set out broad definition of 'caring' for the purposes of carer's leave.*

The consultation set out that it could be appropriate for an individual to take carer's leave for one, or a combination, of the below reasons (which are commonly recognised types of caring):

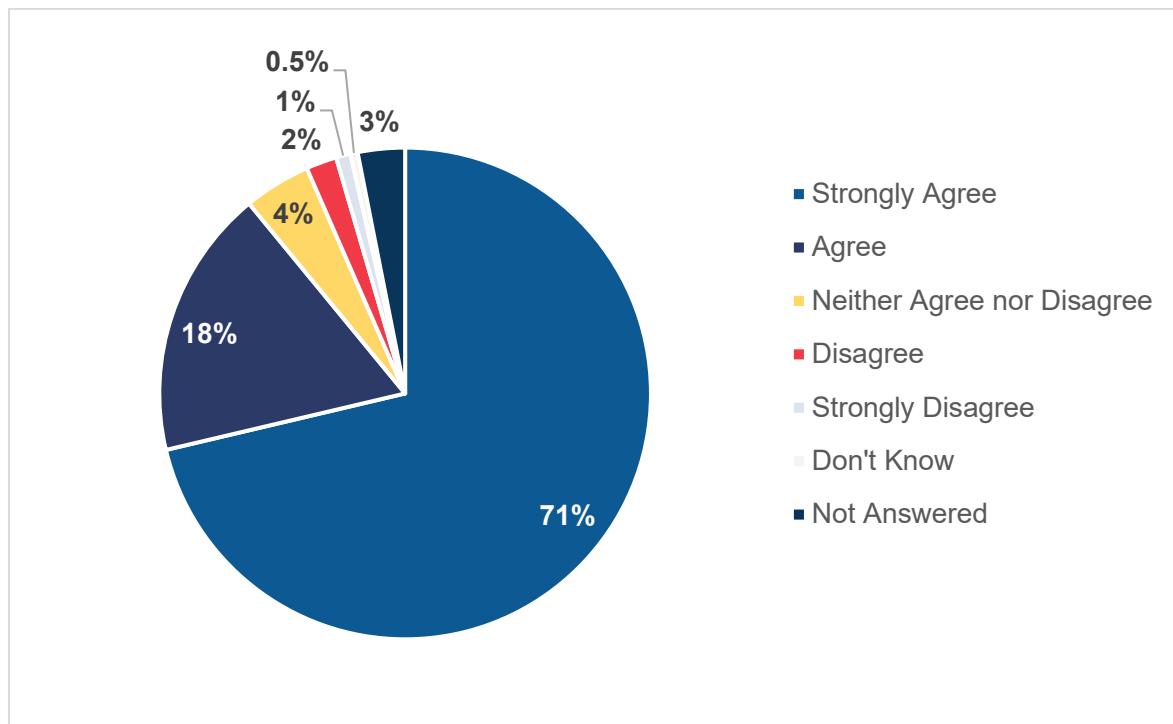
- **Providing personal support**, such as keeping an eye out for someone, keeping them company and staying in touch.
- **Providing practical support**, such as making meals, going shopping for them, laundry, cleaning, gardening, maintenance and other help around the home.
- **Helping with official or 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 arrangements**, such as dealing with social services or the voluntary sector, moving someone into a care home, making home adjustments or adaptations.

The consultation also asked for views on whether carer's leave should be able to be used to accompany someone to appointments.

### **Question 7: Do you agree with the proposed reasons for taking Carer's Leave?**

There were **814 responses** to this question. **649 respondents** provided reasons for their answer.

**Figure 9: Agreement with proposed reasons for taking Carer's Leave**



**89%** of respondents strongly agreed or agreed with the proposed reasons for taking carer's leave. Respondents who agreed with the proposed reasons were supportive of the broad approach taken to defining what carer's leave could be used for and agreed that the suggested tasks were in line with their caring responsibilities.

There was significant support for appointments to be included in the remit of carer's leave, with **over 50%** of those who provided reasons for their answer highlighting that accompanying someone to an appointment was an important aspect of caring. It was also noted that this is an activity for which many unpaid carers currently rely on annual leave.<sup>15</sup>

A range of reasons were provided by those who disagreed with the proposed reasons for taking carer's leave (**3%** of respondents). These included that the proposed reasons for carer's leave should not be limited to a prescribed list but should be available for any reason. A limited number of respondents felt that the proposed reasons were too broad and should be limited to formal arrangements (e.g. medical appointments). We also heard limited support for other existing rights to be used in these circumstances, for example annual leave or flexible working. We heard some concern that 5 days of unpaid leave would not be sufficient to cover the number of appointments and other caring responsibilities that unpaid carers carry out.

Overall, there was clear support for the proposed reasons for taking carer's leave and for appointments to be included in this remit.

**Question 8: Are there any other reasons that you think should be included?**

<sup>15</sup> Chartered Institute for Personal Development response to the Carer's Leave consultation.

There were **381 responses** to this question.

A range of suggestions for other reasons were provided from respondents. These included respite for carers, emergency leave or unexpected circumstances, time off for bereavement after the loss of a cared for person, advocating on behalf of someone, supporting someone while in hospital or recovering after a hospital stay.

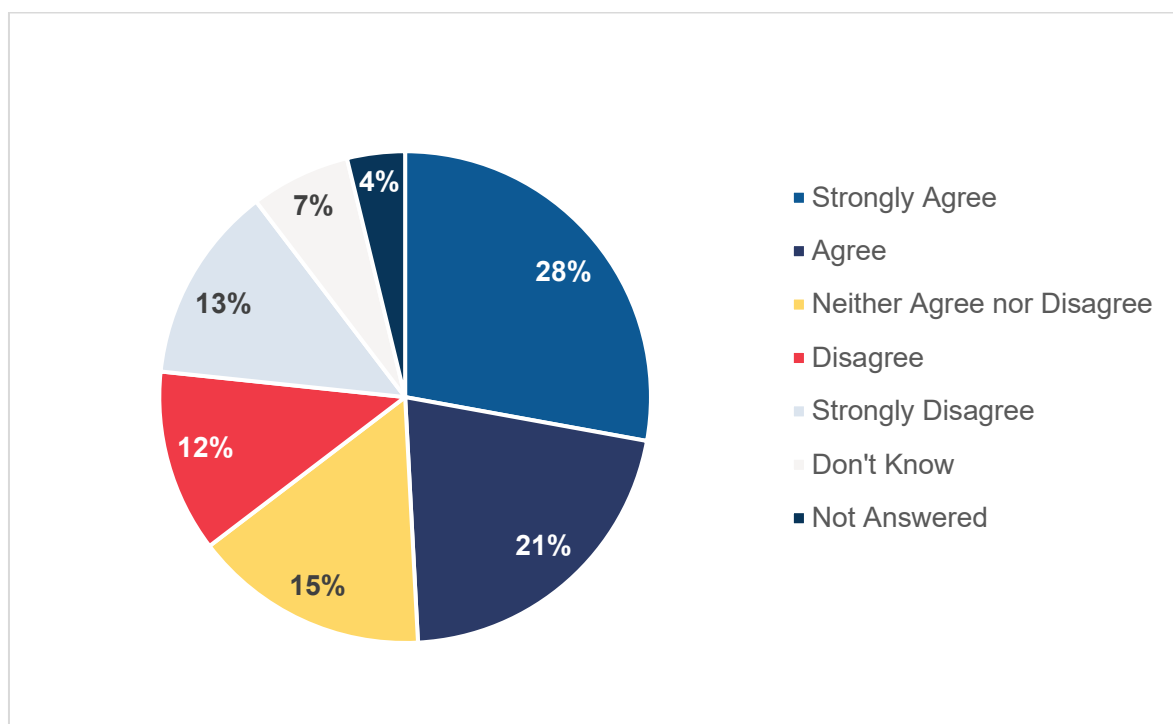
### What the leave cannot be taken for

The consultation set out that the purpose of carer's leave is to help people who struggle to remain in work due to caring commitments by offering them further flexibility to provide care. It was suggested that both *childcare* (other than where the child has a disability of other longer-term care need) and *short-term care needs* should be out of scope of carer's leave as there are existing leave entitlements that are available for these situations.

### Question 9: Do you agree that childcare (other than where the child has a disability or other longer-term caring need) should be out of scope for Carer's Leave?

There were **808 responses** to this question. **543 respondents** provided reasons for their answer.

**Figure 10: Childcare out of scope of Carer's Leave**



**49%** of respondents agree that childcare, other than where the child has a disability or long-term care need, should be out of scope of carer's leave. **25%** of respondents disagreed or strongly disagreed, while **26%** gave a neutral response or did not answer the question.

The primary reason given those who agreed that childcare should be out of scope, other than where the child has a disability or long-term care need, was that every day childcare is covered

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by other family-related policies and entitlements. We saw this agreement across different respondent types, including individuals, businesses and 'other' (which included a number of charities). It was acknowledged that childcare responsibilities are different to other caring responsibilities in a number of ways and should therefore be addressed separately. However, while there was broad agreement from a number of stakeholders that everyday childcare should not be within scope of carer's leave, there were calls for Government to reform parental leave policies and to bring forward measures to improve existing childcare provision.<sup>16</sup>

Those who strongly disagreed or disagreed provided a range of reasons for this response. These included that short-term illness in children often require parents to take time out of work and that not all childcare is emergency leave, therefore falling under the right to time off for dependants. We heard that working parents sometimes use annual leave or sick leave to care for their sick children. We also heard that there may be circumstances which fall between unpaid parental leave and the right to time off for dependants.<sup>17</sup>

**22%** of respondents provided a neutral response to this question, including both 'neither agree nor disagree' and 'don't know'. Reasons for these responses included that often it was dependant on individual circumstances, for example whether there are other family members who could support with childcare.<sup>18</sup> Others felt this question was not relevant to their situation or were unsure about whether other forms of leave would cover everyday childcare, for example unpaid parental leave.

Government recognises that during the period in which the consultation on carer's leave was open at the height of the Covid-19 pandemic, many parents were under the additional pressure of managing home schooling their children alongside working from home. We also heard and have noted the calls made for changes to childcare provisions and parental leave entitlements. As set out in the next steps section of this response, Government will also respond to the July 2019 consultation on parental leave and pay later this year.

### **Question 10: Do you agree that caring for a person with short-term care needs should be out of scope for Carer's Leave?**

There were **814 responses** to this question. **592 respondents** provided reasons for their answer.

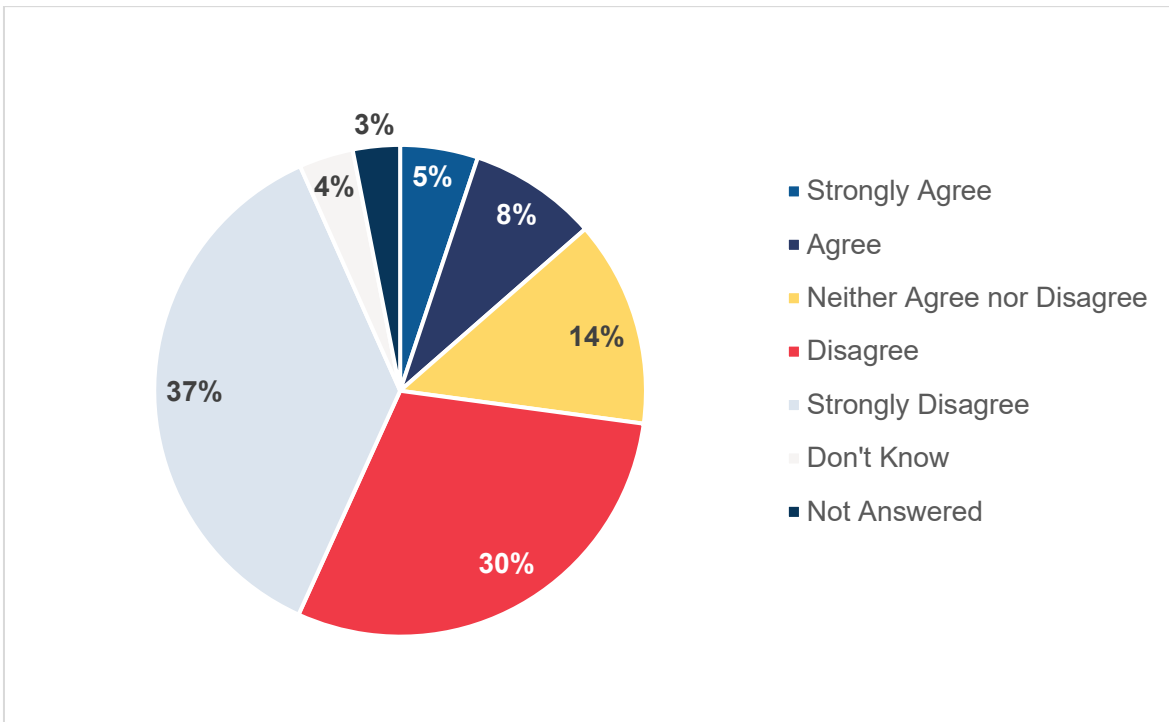
#### **Figure 11: Short-term care needs out of scope of Carer's Leave**

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<sup>16</sup> Equality and Human Rights Commission (EHRC) response to Carer's Leave consultation.

<sup>17</sup> Close the Gap response to the Carer's Leave consultation.

<sup>18</sup> Individual response to Carer's Leave consultation.



**67%** of respondents disagreed that short-term care needs should be out of scope of carer's leave.

We heard a range of arguments for why short-term care need should be in scope of carer's leave, these included that using carer's leave should be based on the intensity of the care need, rather than the length and that the length of care need can often be difficult to determine.

A limited number of respondents agreed that short-term care needs should be out of scope, highlighting that other leave entitlements would apply in these situations, for example, the right to time off for dependants. The Government maintains that the objective of carer's leave is to support those providing care for someone with a long-term care need. It is particularly these long-term ongoing care needs that make it difficult for carers to balance their work and caring responsibilities. In emergency situations the right to time off for dependants provides employees with a leave entitlement to take time off work. Where the short-term care need is foreseeable (e.g. supporting someone who does not usually require care as they recover from a broken arm or minor operation) annual leave can be taken.

**Question 11: Are there any other circumstances or activities which Carer's Leave should not be taken for?**

There were **287 responses** to this question.

A range of other circumstances and activities were suggested which carer's leave should not be taken for. These included emergencies, going on holiday, mild ill health (e.g. common cold), kinship carers (excluding circumstances where the child has a disability or long-term care need) and for bereavement. Government broadly agrees with these suggestions where other leave entitlements are more appropriate, for example annual leave for holiday purposes or time off for dependants in the case of emergencies.

## Evidence

*The consultation set out that the Government believes that it would be appropriate for employees to self-certify their eligibility for carer's leave in the first instance. The questions on evidence sought views on this and what evidence might be appropriate if required.*

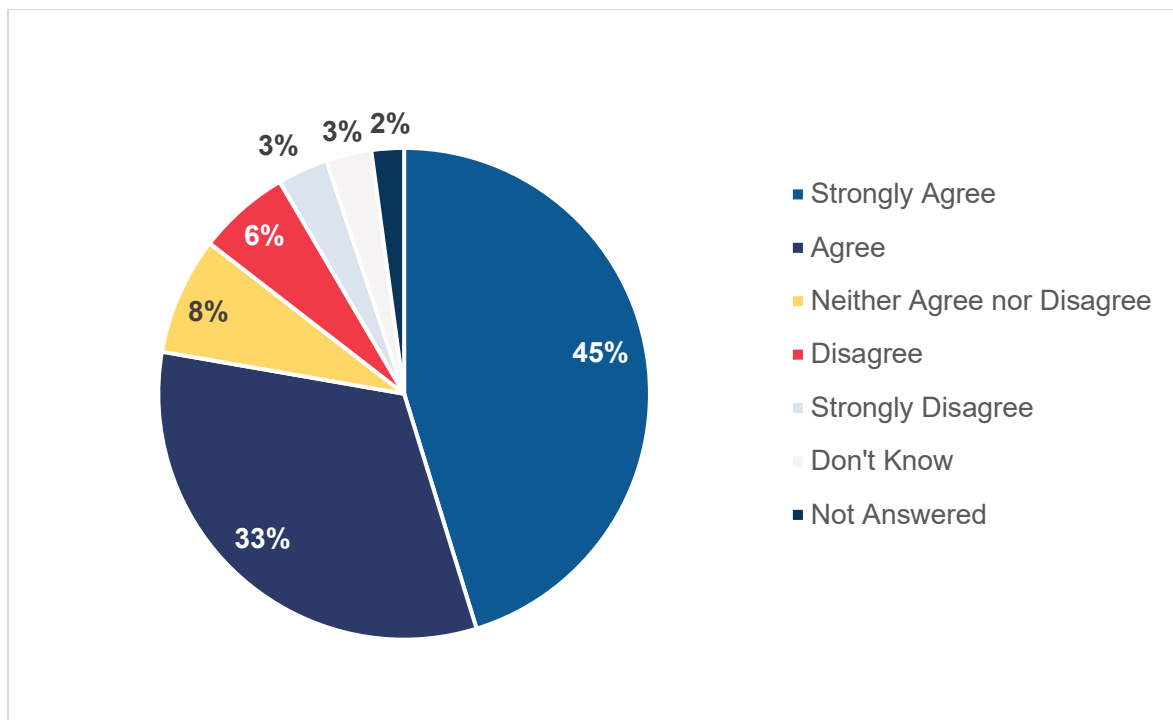
To ensure that the leave is used for its intended purposes and the right is not abused, the consultation set out that it could be reasonable for employers to request further evidence if they so wish. Such evidence could relate to the care need (the condition of the person being cared for) or the specific activities that the leave was used for.

Any abuse or deliberate misuse of the right to take carer's leave would be covered by a company's internal disciplinary policy.

### **Question 12: Do you agree that an employee should in the first instance be able to self-certify their eligibility for Carer's Leave?**

There were **822 responses** to this question. **526 respondents** provided reasons for their answer.

**Figure 12: Agreement that in the first instance employees should self-certify**



**78%** of respondents agreed that employees should be able to self-certify their eligibility for carer's leave, while only **9%** disagreed.

Given the sensitive nature of many caring situations, it was felt by respondents that the process for taking carer's leave should not be overly onerous or bureaucratic which could

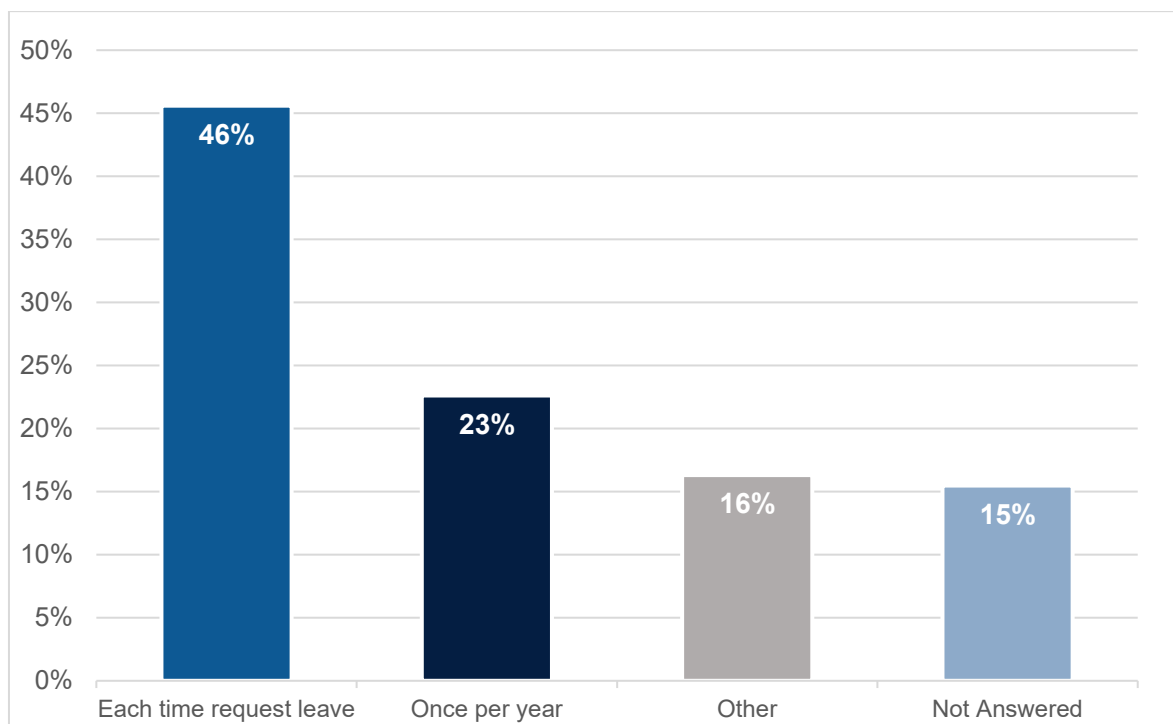
make accessing the leave difficult for those who need it.<sup>19</sup> A light-touch and reasonable approach would make carer's leave accessible, and not put undue stress on carers when they sought to make use of the leave. We heard that employees themselves are in the best position to identify whether they need to use carer's leave for their caring responsibilities and given the entitlement is unpaid it is unlikely an employee will seek to use the leave if there is not a genuine care need.<sup>20</sup>

There was limited concern that enabling employees to self-certify to take carer's leave would be open to abuse and that an evidence requirement would be needed to prevent any misuse of the leave. We also heard comments that in order to encourage more open conversations between employers and employees, carer's leave should be on the managers' approval following a discussion.

### **Question 13: If you strongly agree or agree, how often do you think an employee should self-certify their eligibility for Carer's Leave?**

There were **710 responses** to this question. **368 respondents** provided reasons for their answer.

**Figure 13: Support for employees to self-certify each time they request Carer's Leave**



Most respondents favoured self-certification each time the leave is requested, stating that this was a reasonable approach. We heard that caring responsibilities are difficult to predict, which would make self-certifying once per year difficult. It was also felt that the reasons taking carer's leave may change and as such open and honest conversations between employers and

<sup>19</sup> NASUWT response to Carer's Leave consultation.

<sup>20</sup> Close the Gap response to Carer's Leave consultation.



employees are important in making sure the employee is best supported.<sup>21</sup> Self-certifying each time an employee needs to take carer's leave could act as a prompt to enable this conversation and review with an employer.

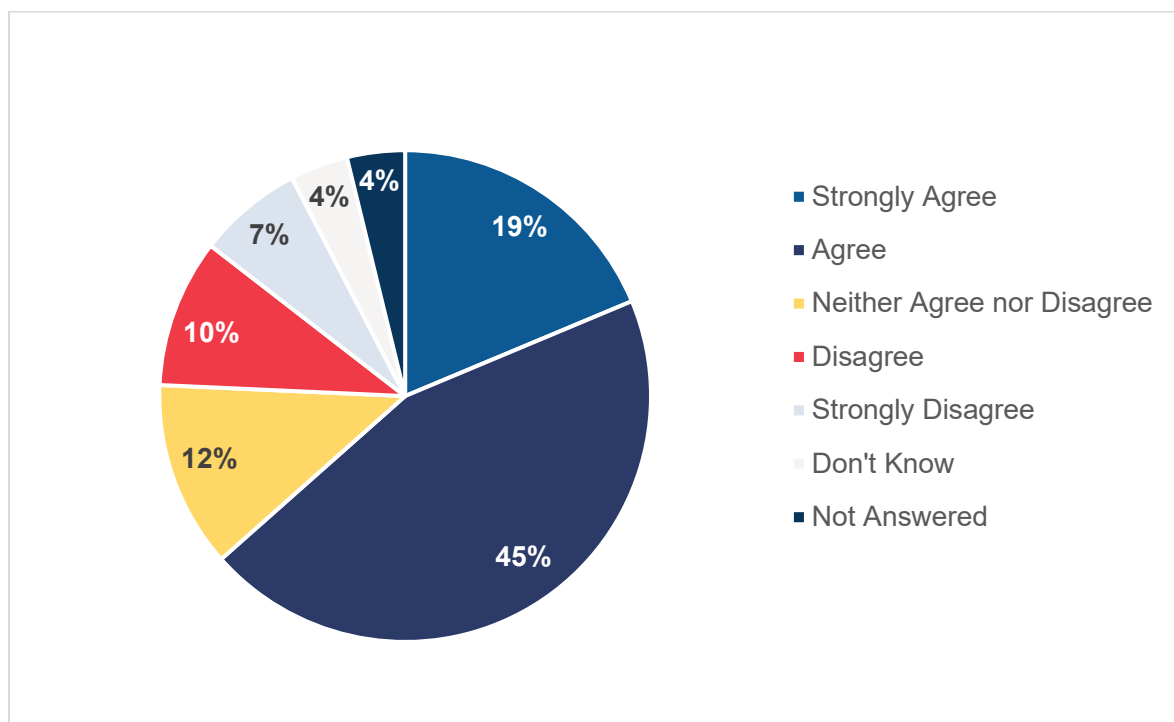
Those who favour self-certifying once per year provided a range of reasons, including that this would be less of an administrative burden than requesting the leave each time it is taken. It was also suggested that carers could self-certify once per year, or if their caring role changed.

Other suggestions included self-certifying once, when an employee becomes a carer, on a quarterly basis, or when circumstances change. Others suggested that it would be situation dependant or should be based on individual needs.

### **Question 14: Do you agree that an employer should be able to request further evidence if they are not satisfied with the self-certification?**

There were **808 responses** to this question. **538 respondents** provided reasons for their answer.

**Figure 14: Agreement that employer should be able to request further evidence if they are not satisfied with the self-certification**



**64%** of respondents to this question agreed that employers should be able to request additional evidence if they are not satisfied with the self-certification. This would provide some protection for employers should they feel the leave was being misused. However, in the comments provided on this question we heard strongly that the evidence requested should be reasonable and appropriate and handled sensitively. We heard that requesting evidence

<sup>21</sup> Muslim Women's Network UK response to Carer's Leave consultation.

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should be by exception, rather than the rule.<sup>22</sup> We also heard support for evidence requirements not to be specified and left open for what is likely to be the minority of cases.<sup>23</sup>

Arguments from those who disagreed (17%) included that as this is an unpaid entitlement to one week of leave, the risk of abuse is low.<sup>24</sup> Building trust between employers and employees was raised by several respondents as important, noting that an evidence requirement could undermine this. We also heard that employees are able to self-certify for one week of sick leave without a requirement to provide evidence, which could be mirrored for carer's leave.

**Question 15: If agree or strongly agree, please describe what evidence could be provided to demonstrate:**

- **The need for care (of the person being cared for)?**
- **What activities the leave is used for?**

There were **474 responses** to this question.

Respondents to this question suggested a range of evidence that could be used to demonstrate the care need and the activities the leave would be used for. Hospital or doctor's appointment letters were widely suggested as was evidence related to benefits that demonstrate a care need, including Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Carer's Allowance.

In addition to suggestions of evidence, a number of respondents also raised challenges with providing evidence to demonstrate care need and that the leave would be used for. In particular, we heard that not all carers carry out activities that involve any form of official evidence, for example a doctor's note. The challenges associated with proving evidence are covered in further detail in the following question.

**Question 16: Please comment on the key difficulties or challenges associated with providing and appropriately handling evidence, including data protection issues related to information about a person's health.**

There were **532 responses** to this question.

A significant number of respondents raised issues of data confidentiality relating to information about the dependant or cared for person. There was clear concern around ensuring that consent was in place before any information could be shared with an employer related to the dependant, with some respondents noting that not all cared for people would be able to provide consent for their information to be shared.

We heard that employers would need to carefully navigate GDPR requirements to ensure they were acting within the law if holding sensitive personal or medical data relating to a third party (i.e. the dependant rather than the employee). It was suggested that any evidence

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<sup>22</sup> Carer's UK response to the Carer's Leave consultation.

<sup>23</sup> Ibid.

<sup>24</sup> Close the Gap response to the Carer's Leave consultation.

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requirements should be light touch to ensure that employers hold only minimal information on the personal situation of the carer and the person/persons who depend on them for care.<sup>25</sup>

One employer noted resource and capacity may be required within in organisations to ensure the relevant teams have the correct skills and experience in handling data of this sensitive nature. Additional steps would need to be taken by employers to manage this data. For example, this might include undertaking data protection impact assessments, clearly defining the purpose of the data and considering how it would be lawfully handled, training teams in collecting and handling the data and maintaining records to document the usage of this data.<sup>26</sup> Government heard that this could put additional burdens on employers.

Concerns were also raised around the different types of caring relationships and situations, with several respondents highlighting that not all caring relationships are easily evidenced and may not have a paper trail.<sup>27</sup> Many are of an informal nature where evidence, for example, a doctor's letter or appointment confirmation, is not available.

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<sup>25</sup> Carer's UK response to the Carer's Leave consultation.

<sup>26</sup> Deloitte response to the Carer's Leave consultation.

<sup>27</sup> Carer's UK response to the Carer's Leave consultation.

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## How the leave can be taken

*The consultation set out the Government's proposal to introduce one week of unpaid carer's leave per year. Provided that the employee gives notice and meets the eligibility criteria, they should be granted the leave by their employer.*

### How the entitlement would apply

It was set out in the consultation that the number of days available to take would apply to the individual employee and would be pro-rated for part time work. The entitlement would not be capped at a maximum number of weeks over a certain number of years.

### How the leave would be available to take

The consultation sought views on how the leave entitlement could be offered flexibly to carers while balancing the impact on employers of staff being away from work and administering the leave. Two options for how the leave could be accessed were set out:

- As a single block of one whole working week (pro-rated for part-time employees)
- As individual days or half-days, up to one whole week (pro-rated for part-time employees)

### **Question 17: Please comment on the pros and cons for employees and employers, if the leave was available to take as a week of unpaid leave, available to take as a *single block*?**

It was notable in the consultation responses that there was limited support for the leave to be available to take a single block, with several respondents unable to provide any pros for employees of taking the leave as a single block. We heard that while a week of leave may be suitable for a small number of carers, this would be very situation dependent, and the majority would benefit from a more flexible leave entitlement.<sup>28</sup>

Government heard significant concerns with the option of taking carer's leave in a block of one week. Suggestions for cons for employees of taking the leave as a single block included a lack of flexibility which does not reflect the needs to working carers, employees being forced to take more time off than they need and that the leave entitlement would be used on one single occasion, without allowing time away from work for caring responsibilities at other times of the year.

For employers, we heard that there may be an administrative benefit with only one leave request per employee, per year, making it easier to manage operational requirement and workloads.<sup>29</sup> However, we also heard that employees may be away from work for longer than they need to be, meaning employers need to arrange and bear the cost of cover for longer

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<sup>28</sup> Anonymous Trade Body response to Carer's Leave consultation.

<sup>29</sup> Government notes that this may be the case for some, but not all, employers.

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than they may otherwise have needed to. It was also suggested that staff are likely to take other forms of leave throughout the year to fulfil their caring responsibilities.

**Question 17: Please comment on the pros and cons for employees and employers, if the leave was available to take as a week of unpaid leave, available to take as *individual days*?**

We heard very strong support in the responses to this question for carer's leave to be available to take as individual or half days, up to a block of one week. Responses suggested that this would be workable and the best option for both employees and employers.

Suggestions for pros for employees included flexibility to balance work and caring by enabling employees to take leave as when it is required, tailored to the needs of the cared for person. We also heard that taking the leave flexibly would enable carers to provide care over a number of weeks, rather than being restricted to one week which is in line with many caring relationships being ongoing and long-term. This option would also create less of a financial burden for carers as the unpaid leave can be spread throughout the year, rather than an employee losing a week of earnings.

A number of respondents to this question noted that they could not see any cons to this more flexible option. Others noted that if the leave was available to take in individual days, it would be possible for carers to take a full week off if this was required. We also noted that while increased flexibility is favourable, there are calls for the leave to be paid.

It was also noted in the responses that a number of employers who already offer carer's leave (either paid or unpaid) allow for it to be taken flexibly. Suggestions for pros for employers if the leave were available to take as individual days included that employees will not be on leave for longer than is required, causing less disruption to the business and that in many cases it may be easier to arrange cover for shorter periods of time (e.g. one day) or cover may not be required. We also heard that employees whose needs are better met are likely to feel more engaged and better able to balance their work and personal lives.

We saw fewer responses when asking for cons for employers, but noted it may be more difficult for some employer to manage the leave being taken flexibly, with more requests to take the leave adding to the administrative burden (for example in managing the payroll).

## Requesting the leave

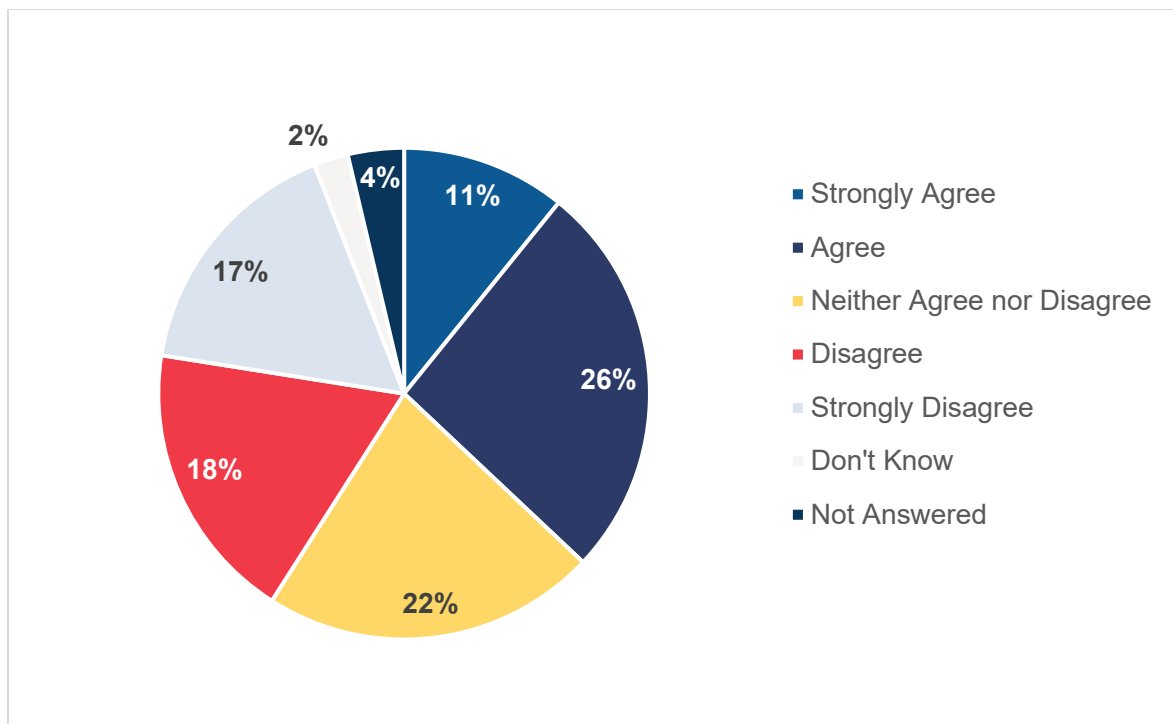
*The consultation sought views on if it would be appropriate to require employees to give notice before taking carer's leave.*

The consultation set out that the Government wants to balance helping employers to deliver carer's leave by giving them the opportunity to plan for staff absences and making the administrative burden proportionate, with the need among carers to respond to changing circumstances.

### **Question 18: Do you agree that an individual should be required to give their employer notice ahead of taking Carer's Leave?**

There were **809 responses** to this question. **694 respondents** provided reasons for their answer.

**Figure 15: Requiring employees to give notice ahead of taking Carer's Leave**



There were mixed responses to the question of whether employees should be required to give notice ahead of taking carer's leave. **37% of respondents** either agreed or strongly agreed that notice should be given, while **35% of respondents** disagreed or strongly disagreed.

When broken down further, analysis showed that **35% of individuals** agreed that notice should be given, while **36% of individuals** disagreed. **51% of businesses** agreed that notice should be given, while **20% of businesses** disagreed.

Many respondents who were in favour of a notice period highlighted that this allows employers to plan, manage their business needs and arrange cover when needed. In many cases this was felt to be reasonable and differentiates carer's leave from the right to time off for

dependants.<sup>30</sup> It was noted that some employers may choose to take a more flexible approach to a notice period.

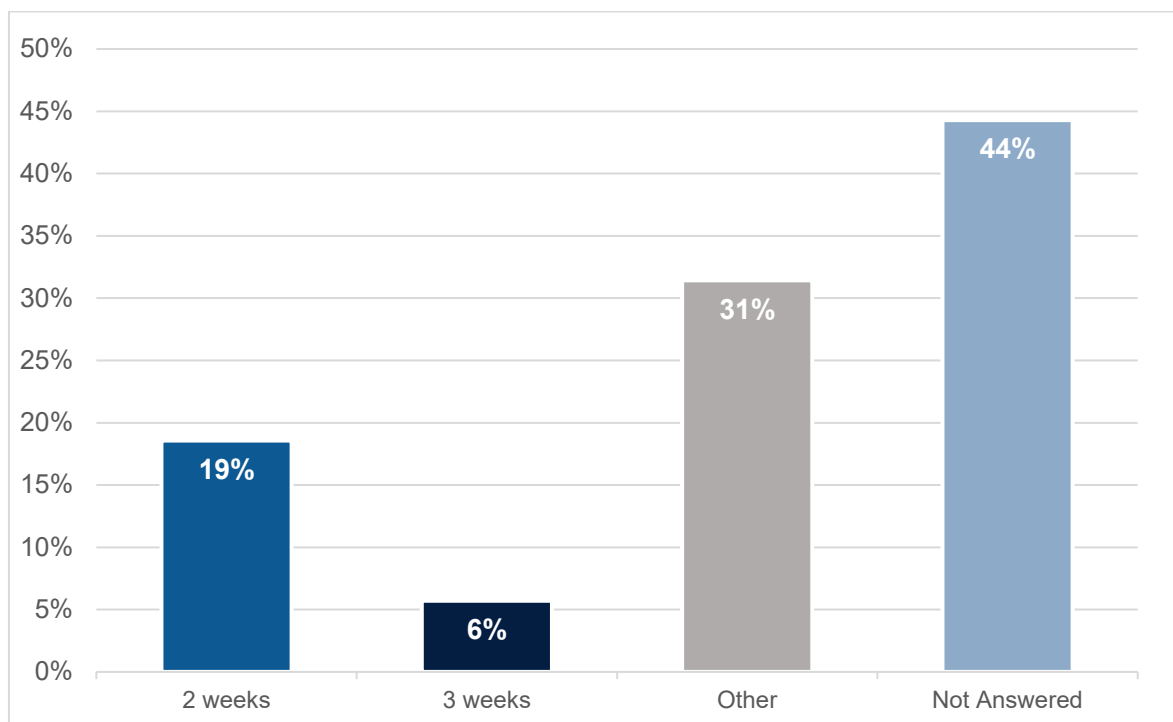
We heard in many responses that whether it was reasonable to require a notice period would depend on the circumstances. Several respondents felt that employees should be encouraged to give notice whenever possible, but that in emergencies employees should be able to take leave without notice.<sup>31</sup> This was also reflected in many of the answers provided by those who neither agreed nor disagreed with giving notice ahead of taking carer's leave.

Of those who disagreed that a notice period should be required, the majority highlighted that notice cannot be given in emergency situations and raised the unpredictable nature of caring responsibilities.

### **Question 19: If you strongly agree or agree, what do you think a reasonable notice period would be for a block of one week of Carer's Leave?**

There were **468 responses** to this question. **263 respondents** provided reasons for their answer.

**Figure 16: Notice period for a block of one week of Carer's Leave**



The reasons provided for selected 2- and 3-weeks' notice for one week of leave were broadly similar, with many noting that this would provide employers with sufficient time to plan or arrange cover. One legal firm suggested that there could be an option for the employee to give

<sup>30</sup> Parkinson's UK and Carer's UK response to Carer's Leave consultation.

<sup>31</sup> MS Society response to Carer's Leave consultation.

shorter notice but for the employer to extend it for up to three weeks if the employer cannot reasonably accommodate the employee's request within the shorter notice period.<sup>32</sup>

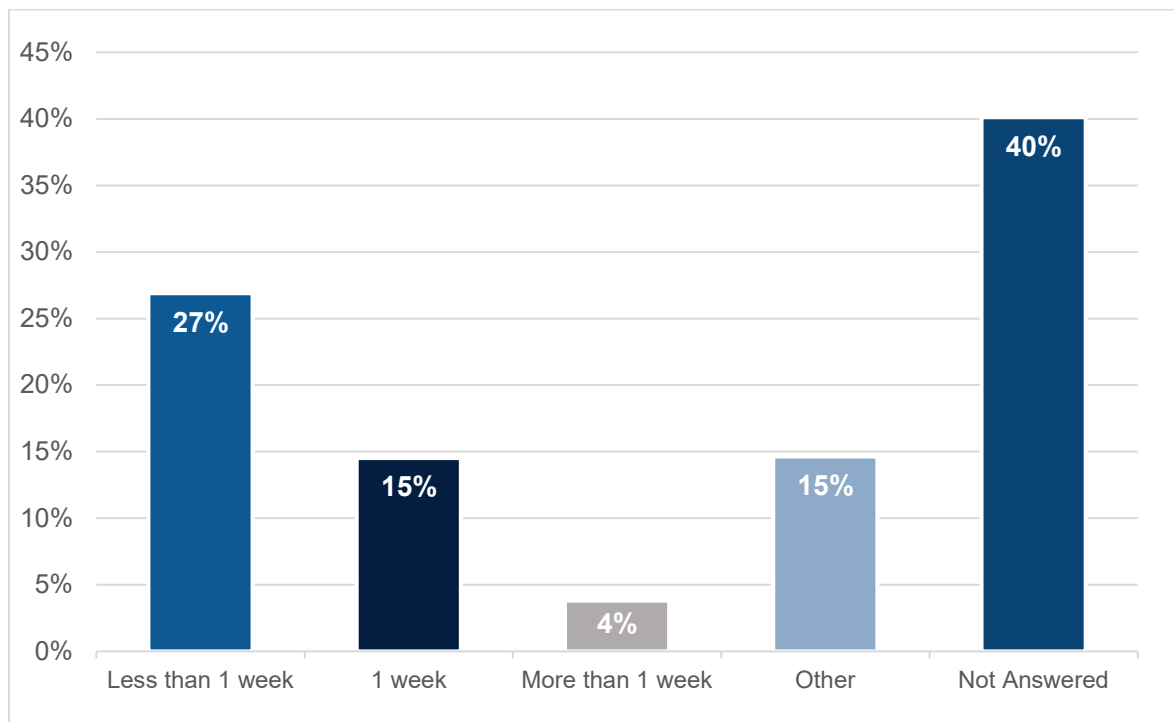
Several respondents suggested that it would be reasonable for the notice period for carer's leave to be in line with that required to take annual leave, as this is familiar to both employee and employer.<sup>33</sup>

Other suggestions for an appropriate notice period included 1 week, 1 day, as much as possible and none at all.

### **Question 20: If you strongly agree or agree, what do you think a reasonable notice period would be for a single day of Carer's Leave?**

There were **503 responses** to this question. **252 respondents** provided reasons for their answer.

**Figure 17: Notice period for a single day of Carer's Leave**



Many respondents who selected 'less than 1 week' suggested a notice period of 1-2 days. Some suggested that notice should be at the managers discretion or that no notice should be required in emergency situations, with calls for flexibility from employers. Several respondents echoed reasons provided in question 19, suggesting that the notice period for carer's leave should mirror that of annual leave.<sup>34</sup>

In the reasons providing for '1 week' or 'more than 1 week' we heard that this would be sufficient for planned caring activities. Several respondents noted that appointments are

<sup>32</sup> Lewis Silkin LLP response to Carer's Leave consultation.

<sup>33</sup> Deloitte response to Carer's Leave consultation.

<sup>34</sup> Disability Law Service response to Carer's Leave consultation.



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usually scheduled in advance, which would allow carers to give a week's notice (or more) to accompany a dependant to an appointment. Again, calls were made in the comments on this question for no notice period, particularly in emergency situations.

As in question 19, calls were made from those who selected 'other' for no notice period to be included. Others argued that there should be flexibility, with as much notice given as possible but acknowledgement that this may not be possible in emergency situations.

**Question 21: Please comment on how employers would manage the process for requesting and recording the leave, and any associated issues, if it was:**

**- A week of unpaid leave, available to take as a single block?**

**- A week of unpaid leave, available to take as individual days?**

There were **424 responses** to the first part of this question (single block) and **420 responses** to the second (individual days).

In response to both parts of this question a significant number of respondents, across the range of respondent types, suggested that carer's leave would be requested, approved and recorded in the same way to other leave entitlements (e.g. annual leave).<sup>35</sup> Others suggested a request could be made directly to a line manager. One individual suggested that the process for requesting carer's leave could prompt a regular and constructive dialogue between employer and employee. A number of large employers commented that they already had a system in place for managing and record leave requests, which could include carer's leave.<sup>36</sup> Similarly, a number of respondents from medium, small or micro businesses also commented that they would use a similar process as is in place for annual leave.<sup>37</sup>

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<sup>35</sup> Chartered Institute for Payroll Professionals (CIPP) response to Carer's Leave consultation.

<sup>36</sup> Including Royal Mail and Deloitte response to Carer's Leave consultation.

<sup>37</sup> KR HR & Training Consultancy Ltd response to Carer's Leave consultation and other anonymous business respondents.

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## The impact on employers

*The consultation sought views on what impact a new statutory leave entitlement would have on employers, both in terms of the benefits this could bring and the costs that Government acknowledges carer's leave would create.*

Government expected that for employers, carer's leave would support productivity by preventing burnout among working carers and by supporting retention of valued expertise and reducing recruitment and induction costs. Government acknowledged that there would also be cost to employers largely driven by familiarisation and administrative costs. There may also be additional cost for those employers who wish to go beyond the statutory entitlement and offer paid carer's leave. However, this would be at the employers' discretion.

### **Question 22: What benefits for employers would arise from introducing a right to unpaid Carer's Leave?**

There were **657 responses** to this question.

The benefits for employers that were suggested in response to this question can be broadly split into three themes:

1. *Better supported and valued workforce, leading to a more inclusive workplace and greater productivity*

We heard that carer's leave will provide official recognition of unpaid carers and their caring responsibilities in the workforce. This will create a more inclusive working environment and help carers to feel more supported and valued at work, improving motivation and productivity which would benefit the employer.<sup>38</sup>

2. *Increased staff retention, leading to reduced recruitment and induction costs*

A significant number of respondents to this question referenced better staff retention as a key benefit for employers from a new entitlement to carer's leave. It was noted that this would lead to a reduction in recruitment costs.<sup>39</sup> We heard that employers invest in the development and training of their employees, as such retaining experienced staff is in the employer's interest to this investment is not lost.<sup>40</sup>

3. *Improved workforce health and wellbeing outcomes*

The leave could help improve the wellbeing of carers and reduce stress as they do not have to worry about how they will take time out of work to care. This will enable employees to better balance their work and caring responsibilities, as well as improving their own health outcomes. This will improve concentration and productivity

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<sup>38</sup> Deloitte response to Carer's Leave consultation.

<sup>39</sup> Anonymous large business responses to Carer's Leave consultation.

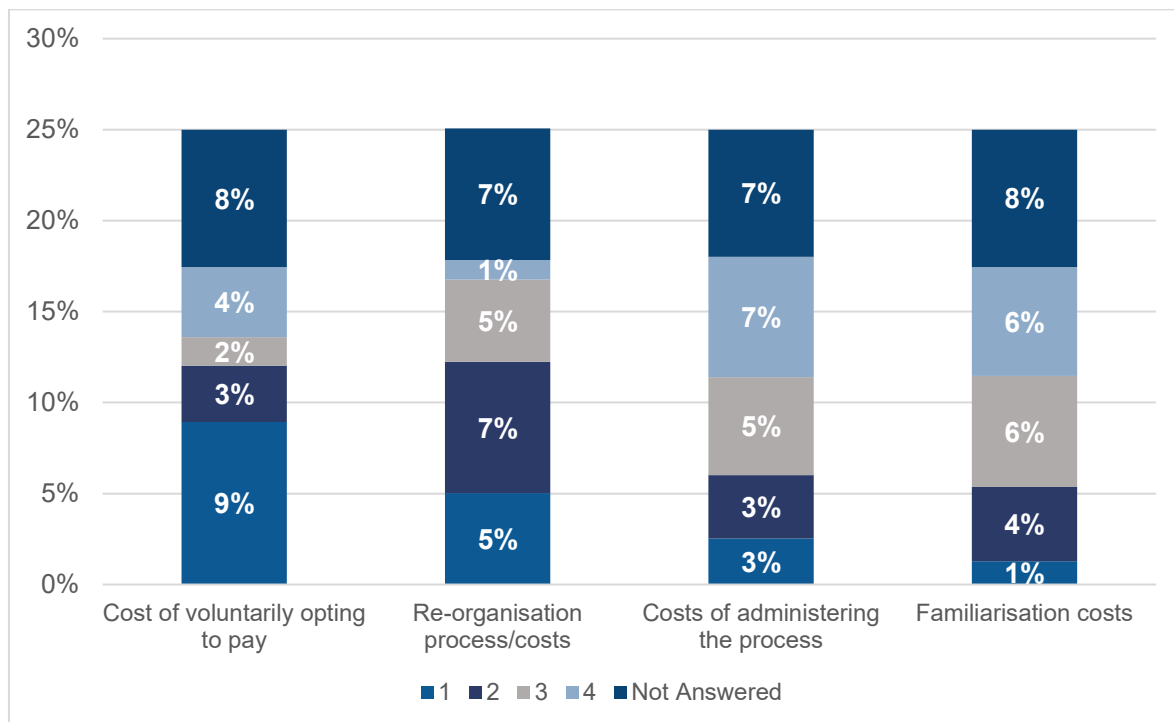
<sup>40</sup> USDAW response to Carer's Leave consultation.

while at work, as well as reducing the likelihood of carers taking sick leave themselves due to burnout or stress.

In addition, we also heard that employers would benefit from the clarity of a new entitlement specifically allowing carers to take time out of work to care.<sup>41</sup>

**Question 23: What are the most significant costs for employers which would arise from a right to unpaid Carer’s Leave? Please rank 1 – 4.**

**Figure 18: Costs to employers (with 1 as the most significant cost)**



The cost of employers voluntarily opting to pay for carer’s leave was ranked as the highest cost to employers by those who responded to this question. This would be at the employer’s discretion and not a requirement under the new entitlement to carer’s leave.

Re-organisation process and costs were ranked as the second highest cost to employers. These would be likely to include arranging cover while employees are off work on carer’s leave, which would incur cost for the employer.<sup>42</sup>

Familiarisation costs ranked as the third highest cost to employers. It was noted by respondents that businesses will need to ensure employees are aware of and familiar with the new leave entitlement, but that this cost would reduce over time as carer’s leave becomes ‘business as usual’.<sup>43</sup>

The cost of administering the process was ranked fourth, as the smallest cost to employers. We heard from a number of respondents that these admin costs should be minimal, especially

<sup>41</sup> Acas response to Carer’s Leave consultation.

<sup>42</sup> Anonymous micro business response to Carer’s Leave consultation

<sup>43</sup> Anonymous large business responses to Carer’s Leave consultation.

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if the employer can align administering the leave to their existing process for taking other forms of leave.<sup>44</sup>

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<sup>44</sup> Anonymous large business responses to Carer's Leave consultation.

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## Section 3: Further points raised during the consultation

### Paid Carer's Leave

There were strong calls from charities and individuals for this leave entitlement to be paid. The Government understands these calls and is sympathetic to the financial challenges faced by informal carers. However, the Government has been clear that the aim of carer's leave is to give individuals greater flexibility to provide care during regular working hours. The priority is to ensure that the leave is widely available to those who need it, while making sure that the impact on employers is proportionate. The legislation for carer's leave would form the minimum entitlement, and it would be at employers' discretion to enhance the entitlement in length or to offer pay.

Alongside employment measures such as flexible working and this new entitlement to Carer's Leave, the Government gives carers access to financial support when they need it, by ensuring that benefits (including Carer's Allowance and Universal Credit) meet the needs of eligible carers and support employment for those carers who are able to work.

### Flexible Working

The responses Government received to the consultation on carer's leave made clear that flexibility is hugely important in helping unpaid carers to balance their caring responsibilities with employment.

The Government is clear about the benefits of flexible working for employees and employers alike. It can give all employees much welcomed choice when looking to balance work and life at home – and from an employer's perspective, offering flexible working arrangements can help to recruit and retain valued staff members, as well as enabling them to reach their full potential at work.

There is currently a legal framework in place that grants all employees with 26 weeks' continuous service the statutory right to request flexible working. This includes requesting a change to their hours, working patterns, or working location. Employers must consider this request but reserve the right to refuse requests on specific business grounds.

Our objective is to encourage a discussion between employee and employer about what flexible working options are possible, rather than one side imposing certain ways of working on the other. The Government wants to make it easier for people to work flexibly and in our manifesto, we committed to further encouraging flexible working and consulting on making it the default unless employers have good reasons not to. This consultation will be launched in due course.

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## Support for working parents

Government noted calls for better support for working parents in the consultation responses on carer's leave. We heard that there are situations which may fall outside of existing leave entitlements, where the right to time off for dependants is available only in emergency situations and unpaid parental leave is available to take in blocks of one week, rather than individual days. For example if a child requires short term care at short notice, outside of an emergency, a parent may only require an individual day of leave rather than a full week.<sup>45</sup> This falls outside of the right to time off for dependents and unpaid parental leave.

It was raised that the Covid-19 pandemic has put increased pressure on working parents, many of whom have struggled to balance work and childcare. There were calls for carer's leave to be introduced alongside other measures to support parents, such as those relating to flexible working<sup>46</sup> or improvements to unpaid parental leave (for example changes to the qualifying period of one year's continuous service).<sup>47</sup>

In 2019 the Government consulted on high-level options for reforming parental leave and pay. We are also conducting a formal evaluation of the Shared Parental Leave and Pay scheme. Together, these will give us a fuller picture of how well the current system of parental leave and pay is working for parents and employers. We intend to publish the Government Response to the consultation and the findings of the evaluation later this year. We will also take into account the responses provided as part of this carer's leave consultation on childcare.

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<sup>45</sup> UNISON response to Carer's Leave consultation.

<sup>46</sup> EHRC response to Carer's Leave consultation.

<sup>47</sup> Muslim Women's Network UK response to Carer's Leave consultation.

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## Section 4: Next Steps

The Government is committed to protecting and enhancing worker's rights. The Government will introduce a new leave right to one week of leave per year for unpaid carers as an important measure in supporting the UK labour market and businesses to build back better.

The insights and feedback received as part of the consultation have been important in developing a policy that meets the needs of the millions of people balancing employment alongside unpaid caring responsibilities, without putting undue burden on businesses. The COVID-19 pandemic heightened the challenges already faced by carers and has increased the numbers of those who provide this invaluable service. We consider the introduction of carer's leave to be an important step in recognising this group of people within the labour market, their contribution and the particular set of challenges that they face day to day.

The Government is committed to building back better for unpaid carers, the majority of who are women, and intends that carer's leave, alongside other policies to further encourage flexible working, will help carers to provide care as they would wish to and in such a way that supports their own health and wellbeing. We also hope that businesses will realise the benefits of supporting their employees with caring responsibilities as they also build back better from the COVID-19 pandemic, seeing increased engagement, productivity, and retention from this important group within their workforce.

We are very grateful to the wide range of charities, businesses, trade unions, individuals and other groups who engaged with us as part of the consultation process and have greatly valued their detailed input.

The Government looks forward to introducing an entitlement to Carer's Leave, as set out in this response to the consultation, when parliamentary time allows.