

Northern Ireland, The 'Good Jobs' Employment Rights Bill

Deadline: 30th September

Consultation document explaining intention of the Bill:

<https://www.economy-ni.gov.uk/sites/default/files/consultations/economy/good-jobs-consultation.PDF>

Section C: Voice and representation

The answers to these questions are based on research carried out by academics at the ESRC-funded Centre for Care at The University of Sheffield. Specifically, they are drawn from findings from research on the organising, activism and trade union activity of paid adult social care workers in England by Dr Duncan U Fisher and Professor Liam Foster.

The research comprises a series of case studies of different organisations working in the adult social care sector in England, including established and independent trade unions, campaign groups, and those involved in community organising. The insights below are based on 35 interviews we conducted with key actors involved in care organising, including care workers, alongside a review of the existing literature. Although the national context differs, much of the research relates to features of adult social care work that are not limited by geography, for example, workforce fragmentation and dispersal, outsourcing, and the common practices of paid care work. We therefore contend that the findings of this research, particularly those we draw on here, have transferability to the Northern Irish context.

Question C1: What do you think are the main barriers faced by trade unions when trying to access a workplace?

In adult social care, there are a number of barriers for trade unions trying to access workplaces.

1. The fragmentation and dispersal of the workforce, where workers often do not have a specific place of work – a particular challenge for homecare workers, who are peripatetic and move around the homes of people they support. Locating such workers and finding somewhere to meet them, individually or collectively, is highly resource- and labour-intensive for unions.
2. Supporting an international workforce: An organiser from an established trade union gave the example of the recent growth in numbers of migrant care workers through the Health and Social Care Visa, and the difficulties that presents for unions engaging with these workers. This includes heightened fear and mistrust due to their status as migrants and visa holders, and other barriers, such as language:

“Increasingly since the change to the visa books, it’s migrant workers and that is a whole other organising challenge because for all the fear that the wider workforce feel as, you know, times ten for migrant workers because they’re sponsored by their employers who have got migrant workers or sponsorship visas that are incredibly fearful in getting involved with the union. And you don’t have access to because our access is based off our existing membership and their networks. So, if you’ve got a group of migrant workers, even in the most inclusive workplaces, they’re either divided by based off the language, the lack of... they’ve just not been working there very long. So, getting access to those workers is really difficult and then when you do, they’re very scared.” (Organiser in an established trade union)

3. Employer concerns: Furthermore, employers do not always encourage or support trade unions accessing their workforce, due to fears that it may encourage workforce agitation.

Question C3: Please outline any experiences (good or bad) you have of trade union officials accessing workplaces.

Our research at the Centre for Care has identified challenges for trade union officials in the sector accessing workplaces in the adult social care sector. For instance, this quote from an organiser with an established trade union, describes the problems unions have in the context of adult social care in England. The contrast with other workplaces, such as local authorities or the NHS, is telling:

“There’s a number of challenges. The first one is access, there are a few exceptions but by and large we don’t have access to workplaces. Whereas in the NHS or in the council we can... as part of our recognition agreements we can go around, walk around wards and speak to people. I can’t walk into a care home or supported tenancy and speak to members or non-members about organising. So, access to our membership and the wider workforce is just very limited. And that extends to... like this evening for example, I’m holding a members’ meeting and it’s in Wetherspoons, like a mile away from a care home. So, it’s obviously not ideal.” (Organiser 2 in established trade union)

In addition to the challenges related to physically accessing a dispersed workforce, the fragmentation and marketisation of the care sector also presented a barrier. In contrast, our research indicates that the workplaces where access is easier, or where there is less employer hostility to union access, are workplaces that are comprised of workers who were, or still are, employed directly by local authorities:

“The coverage of recognition and collective bargaining will be higher in first generation offshoots from councils. So like we’ve still got some arms’ length, some wholly-owned subsidiaries or mutuals that are offshoots from the councils and that’s usually where we would have the higher coverage of collective bargaining. Where there’s been multiple transfers, there has been that erosion of recognition and trade union access.” (Organiser 1 in established trade union)

Question C4: Do you think trade union presence in a workplace is necessary to ensure employees have a voice and are listened to by their employer?

Our research at the Centre for Care has highlighted numerous examples where trade unions and care worker organisers have played a valuable role in improving the circumstances of the care workforce. Unions bring a different perspective to internal workplace mechanisms. This is particularly true in the context of adult social care employment, where we conduct research, and where managers are often far removed from the daily work, and where workers are dispersed and have little time, space or opportunity to come together. Our research explored why care workers became involved in union activity, often stemming from a lack of opportunity to ‘have their voices heard’. This is the account of ‘Claude’ (a pseudonym) a worker in the home and United Voice of the World (UWV) member about why he got involved with the union:

“We were just workers who want protection with all, I should say, the bad things happening at work, the bad environment, the discrimination, people not listening to us.”

'Claude' and other workers expressed great frustration with not being listened to by their employers, and this extended to what he saw as wider society's ignorance of care work. Moreover, when UVW got involved and began building a campaign at the Claude was a member of a larger, more established union, but he switched to UVW as he saw UVW's work as being more likely to lead to change. This links to the work of Però (2020: 906) who noted that independent union's 'gestation, emergence and growth are directly linked to first-hand, negative experiences with mainstream unions, especially on issues of representation, autonomy, co-optation, bureaucracy and the development of policy and collective initiatives'. However, there are also examples where more established unions with greater resources and membership levels have been able to use their scale to successfully advocate for workers in the care sector. Therefore, different types of unions and organisations which are involved in organising in the care sector, have the potential to improve the circumstances of workers in the care sector.

That said, improvements in working conditions and positive communication between workers and employers can also potentially be achieved without union involvement. Indeed, in our research, individuals engaged in campaigning in adult social care noted the lack of broader representation for care workers, which limits their representation and access to power. This is a quote from a member of a support and campaign group for paid care workers in England:

"I think there's a lack of institutional mechanism through which care workers can find representation. Yes, there are unions. Do care workers get told about unions when they join their workforce? In my experience, no, so I think even just a conception that you might join a union is something that isn't common among a lot of care workers. There's a lack of a well-known professional body, like you might have in other professions, so nursing or social work, which could stand as representative of the interests of care workers." (Member of support and campaign group)

Our research has identified examples of where trade union presence in care sector workplaces enable workers voices to be heard, and in turn has resulted in positive change.

1. 'Environment and practices' of paid care work: including concerns about staffing levels and health and safety issues at the height of the COVID-19 pandemic.
2. Working conditions and terms of employment: Our recent research in England generated evidence about positive developments for care workers' situations, which illustrated what being listened to and having trade union support can do for worker empowerment and contributing to bringing about change. In London, from spring 2020 and the height of the COVID-19 pandemic, an independent trade union, United Voices of the World (UVW) supported a group of workers at a care home in the city in their campaign to improve working conditions in the home. A number of improvements followed, including improvements to sick pay and holiday entitlement, and raising of basic pay in line with the independently calculated London Living Wage. The workers involved placed great value on being listened to by the union, and the backing, support and advice (including on workplace rights and legalities) they provided throughout the campaign, which included individual and collective grievance cases, strike action, and an (unsuccessful) attempt to achieve workplace recognition for the union.

Another mechanism for worker voice is reporting and whistleblowing. Of concern in this regard is the UK Government's halting of welcome plans to introduce Freedom to Speak Up Guardians in adult social care (as there are in the NHS), which would have given paid care workers a new route to reporting workplace concerns

(<https://nationalguardian.org.uk/2023/04/05/next-steps-to-put-people-at-the-heart-of-care/>).

This is particularly important in adult social care environments where workers are exposed to various risks, and where a number of examples of abuse and malpractice have occurred.

Question C15: With the information provided in this consultation, do you feel that the introduction of sectoral collective bargaining would be beneficial to the local economy?

Yes X

No

Don't know

No opinion

Question C16: Please explain the reasons for your answer to question C15.

Care work is happening in local communities everywhere, including in NI. Therefore, improving care work and conditions will be of benefit to those workers and their families, and local communities across NI. The introduction of sectoral collective bargaining (in adult social care where we undertake research) has the potential to lead to positive change in workers' conditions, and in turn care quality. Sectoral collective bargaining can lead to greater parity evenness or standardisation of working conditions, or even higher minimum standards. Inequalities in pay/ working conditions understandably leads to workers leaving for other care jobs to gain a small improvement in these areas pay/conditions (Atkinson and Crozier, 2020: 41-42), but this creates flux and has negative implications for care continuity, and thus often care quality. In the context of paid adult social care work, care quality and job quality are intrinsically connected (Burns et al., 2016), and thus improving the quality of local care jobs through sectoral collective bargaining will likely contribute to improved quality of care.

There are some additional points to be made about the particularities of the UK and NI economies, and the potential benefits of collective bargaining in the care sector for the wider national economy. Improving care jobs offers many potential economic benefits, such as aiding recovery from deindustrialisation and benefitting progress towards greater gender equality. In addition, younger workers are under-represented in paid care work (Northern Ireland Department of Health 2024; Skills for Care, 2022: 85-86), and as such, improving the quality of such jobs would make it more attractive to younger workers and potentially play a role in addressing stubbornly high levels of youth unemployment (when compared with older adults). Finally, care work can be configured to be 'green work', and the improvement of this work can bring benefits aligned to climate agendas.

References

Atkinson, C. and Crozier, S. (2020). Fragmented time and domiciliary care quality. *Employee Relations: The International Journal*, 42(1), pp.35-51.

Burns, D. J., Hyde, P. J. and Killest, A. M. (2016). How financial cutbacks affect the quality of jobs and care for the elderly. *ILR Review*, 69(4), pp.991-1016.

Department of Health (2024). Northern Ireland Health and Social Care Workforce Census March 2024.

https://www.health-ni.gov.uk/sites/default/files/publications/health/hscwc-march-24_0.pdf

Murphy, C. (2016). Fear and leadership in union organizing campaigns: An examination of workplace activist behavior. *Sage Open*, 6(1).

Però, D. (2020). Indie unions, organizing and labour renewal: Learning from precarious migrant workers. *Work, Employment and Society* 34(5), pp. 900-918.

SFC. (2022). *The state of the adult social care sector and workforce in England*, Leeds: Skills for Care.

Section D: Work-life balance

Questions D6-D14 Carer's Leave

The Bill will introduce a new right to up to 1 week of unpaid leave (per year) for eligible employees who have caring responsibilities

The answers to these questions are based on research carried out by academics at the ESRC-funded Centre for Care at The University of Sheffield, and the preceding Sustainable Care Programme. Specifically, they are drawn from:

- *a critical comparative analysis of carers leave policies in Fast, J.; Hamblin, K. and Heyes, J. (eds.) (2024). Combining Work and Care: Care Leave and Related Employment Policies in International Context, Bristol: Policy Press.*
- *Analysis of Census data from the publication by Zhang, J., Petrillo, M. and Bennett, M.R. (2023) Valuing Carers 2021: Northern Ireland. Belfast: Carers Northern Ireland. Available at:*
<https://centreforcure.ac.uk/wp-content/uploads/2023/11/valuing-carers-northern-ireland.pdf>
- *Austin, A., & Heyes, J. (2020). Supporting working carers: How employers and employees can benefit. Research Report, CIPD/University of Sheffield.*
- *Bennett M.R., Zhang Y. and Yeandle S. (2020a) CARING and COVID-19: Financial Wellbeing. Sustainable Care: Care Matters 2020/03, CIRCLE, University of Sheffield.*
- *Bennett M.R., Zhang Y. and Yeandle S. (2020b) CARING and COVID-19 Loneliness and use of services. Sustainable Care: Care Matters 2020/02, CIRCLE, University of Sheffield.*
- *Bennett M.R., Zhang Y. and Yeandle S. (2020c) Caring & COVID-19: Hunger and mental wellbeing. Sustainable Care: Care Matters 2020/01, CIRCLE, University of Sheffield.*

D6 We would welcome your views on whether carer's leave should be a paid right; and, if so, who should be responsible for making the payment and what the rate of pay should be. In answering these questions, we would be grateful if you would provide reasoning for your responses and identify any issues or benefits with your suggested approach.

We support the Northern Irish Government's decision to introduce carer's leave as a priority. In Northern Ireland, one in eight people are providing unpaid care. The care they provide

every year is valued at £5.8billion – five times the cost of care provided by statutory care services – amounting to £16.0 million per day. Carers in Northern Ireland are also providing higher levels of care than in previous years (Zhang et al., 2023). Balancing paid work and care presents significant challenges to carers' financial situations through the impact on their ability to work, and their own health and wellbeing (Bennett et al., 2020a, b, c). We therefore argue that carers leave is a policy priority as it acknowledges a) the ubiquity of caring, b) the contributions carers make to health and care systems and c) the considerable costs – not only financial – borne by carers.

Our research also indicates it is essential that carers leave should be a paid or compensated right in order to ensure that it is available to all carers across all sectors. An unpaid or uncompensated right risks exacerbating inequalities already known to exist in access to carers' leave schemes already offered by some employers. If carers have to bear the cost of taking leave by losing pay, then it is likely that women and those on lower incomes will face significant barriers to using it. If leave is not paid, then employees may use their sick leave or annual leave, with detrimental consequences for their overall wellbeing. Research shows important differences between men's and women's experiences of combining work and care and of accessing carer's leave (Austin and Heyes 2020). In a representative survey of 970 working carers in England and Wales:

- A majority of women (58%), compared with 38% of men, found it difficult to combine work and care.
- Over 1 in 3 women (36%), compared with 24% of men, had reduced their working hours due to caring.
- Taking 'an hour or two' away from work to attend to family or personal matters was difficult for half of women (48%), compared with a third of men (29%).
- Only 9% of working carers said their employer offered paid leave for carers.
- 'Paid leave for carers' was the most commonly desired form of support (by 40%), (compared with 19% wanting unpaid leave) for working carers getting no support at work to manage work and care.

Policies that appear 'neutral' may nevertheless reinforce gender inequalities because they are affected by related issues including persistent gender pay gaps, gendered divisions in unpaid labour and in formal labour markets. A statutory right to unpaid carers leave in the context of a gender-segregated labour market with a substantial gender pay gap is likely to substantially exacerbate inequality.

Lower paid employees are more likely to be carers - and need this new right the most. For many, taking unpaid leave involves losing vital weekly income and will be unaffordable. Unpaid leave might increase uptake among more affluent carers and help build acceptance of the view that combining work and care is normal and desirable (both would be welcome outcomes); however for the lowest paid employees it could be an 'empty gesture'. It thus risks widening the gap between the working conditions of the better off and those who struggle to make ends meet. Long term income security is also threatened when care interrupts the accrual of pension benefits, which are often calculated based on hours worked and duration of employment. It is important that carers continue to accrue pension entitlements during any period of carers leave.

In addition, despite previously being at the forefront in promoting the rights of carers, the UK four nations now currently lag behind established policy and practice in other comparable economies on this issue. Many other countries already offer some form of carers leave, often paid or compensated- in Europe, this is partly a reflection of the EU's Work-Life Balance Directive. Our recent comparative analysis of nine countries offers some form of carers leave allows us to make some assessment about the implications for job and income security, equality and equity, despite a striking absence of administrative data or formal evaluation on the use of carer leave policies internationally (Fast, Hamblin, and Heyes, 2024).

In other jurisdictions where statutory carer's leave exists, governments have found that, to be widely available to those who need it, the leave needs to be compensated or paid. Where short-term leaves are unpaid, existing inequalities create barriers to equitable access. For example, in Finland where short-term leaves are not remunerated (unless subject to collective bargaining agreements), women are more likely than men to be unable to afford to take unpaid leave as the existing gender pay gap makes this unaffordable. Where leaves are paid, the level of earnings replacement varies between countries- from 55% of usual earnings in Canada; 67% in Japan; 70% in Finland; 80% in Sweden, Slovenia and Poland; and 'base rate' salary in Australia and Italy. Payment or compensation has been introduced in these contexts with a view to addressing inequality of access to the leave and/ or in the impact of caring on incomes. In Japan, compensation was introduced as part of their carer leave (referred to as Family Care Leave) for carers - and later was adjusted this upwards to 67% of earnings- to improve take up. Partial earnings do not however completely address issues of inequality of access. For example, in Canada, where working carers receive only partial income replacement, dual earner households often decide that the female partner should access the leave as her pay is typically lower.

We therefore urge consideration of how the new carer's leave can be made accessible to all workers, and paid as a percentage of income-replacement at a level to ensure existing inequalities are mitigated, rather than exacerbated. Failure to engage with these policy issues also risks Northern Ireland lagging behind other comparable economies in this area.

With regard to the resourcing of paid carers leave, this varies cross-nationally. Some nations resource paid leave via long-term care insurance systems (Germany, Japan, with a mix of taxation), thereby requiring wider reform should Northern Ireland consider this avenue for funding.

D7 Do you agree that the definition of caring relationships for the purpose of Carer's Leave should mirror that used for dependant relationships?

- **Strongly agree**
- Agree
- Disagree
- Strongly disagree

- Don't know
- No opinion

Definition in consultation document - 'Dependant relationships' - this would include a spouse / civil partner; a child; a parent; a person who lives in same household; a person who reasonably relies on the employee for care.

D8 Do you agree a carer providing care for an individual with physical or mental health problems likely to last for more than three months, or a disability, or who requires care for a reason connected with their old age should be entitled to Carer's Leave?

- **Strongly agree**
- Agree
- Disagree
- Strongly disagree
- Don't know
- No opinion

D9 Do you agree the reasons for taking Carer's Leave should be broadly defined?

- **Strongly agree**
- Agree
- Disagree
- Strongly disagree
- Don't know
- No opinion

D10 Do you agree that caring for a person with short-term care needs and childcare (other than where the child has a disability or other long-term caring needs) should be out of scope for Carer's Leave?

- Strongly agree
- **Agree**
- Disagree
- Strongly disagree
- Don't know
- No opinion

D11 Do you agree that the leave should be available to be taken as individual days or half days up to one whole week (both options to be pro-rated for part-time employees)?

- **Strongly agree**
- Agree
- Disagree
- Strongly disagree
- Don't know
- No opinion

D12 Do you agree that an individual should be required to give their employer notice ahead of taking Carer's Leave?

- Strongly agree
- Agree

- Disagree
- Strongly disagree
- **Don't know**
- No opinion

D13 Do you agree an employee exercising their right to request or take unpaid Carer's Leave should have the same protections as those taking other forms of statutory leave?

- **Strongly agree**
- Agree
- Disagree
- Strongly disagree
- Don't know
- No opinion

D14 Additional Information

Please provide additional information or clarification to any response in the space below.

Importance of carers leave

Carers leave is essential to the health and wellbeing of working carers. In our representative survey of almost a thousand working carers in England and Wales (Austin & Heyes, 2020) we found that in the previous year:

- 46% had used annual leave to provide care
- 24% had worked in the evening to make up hours spent caring
- 23% had worked at weekends to make up hours spent caring
- 15% had taken sick leave to provide care

Eligibility

In reference to Question D7, we believe it is important that working carers who care for a neighbour or a friend are included in carer leave provisions. In a national context like Northern Ireland where rurality is a feature, caring by family members is often provided at a distance, with neighbours and members of the local community therefore also providing support. Accompanying guidance to the Bill should make it clear that they are included as “a person who reasonably relies on the employee for care.”

Regarding Question D8, our research highlights that countries where leave to provide care for people with particular conditions can create unintended inequalities. In Sweden, for example, there is the requirement that the person being cared for receives support covered by a specific piece of legislation (*Lagen om stöd och service till vissa funktionshindrade, LSS*). This has meant that carers of people with mental health conditions and eating disorders who are excluded from LSS are in turn barred from some forms of carers leave. Other leaves in Sweden are also limited to carers of people with ‘life threatening conditions’, which when narrowly interpreted, has restricted access.

In reference to Question D9, we strongly agree that the reasons for taking carers leave should be broadly defined, recognising that caring is highly varied and includes a wide range of activities and responsibilities which are difficult to conclusively define. Some may worry that carers leave will be abused, but we find that employers already offering it find that this is not the case. Most working carers value support and use it only when needed – anyone who

will abuse a carers policy will likely do the same with other policies. The focus should be on managing that person's behaviour, not on making policies hard to access.

In reference to Question D10, we believe that caring for a person with short-term care needs should be included within the scope of carer's leave. This enables people to deal with urgent and unforeseen care needs. We do not have a view on childcare.

We strongly agree with D11's proposition that carers leave should be available as half days. Our research has indicated that women find it more difficult than men to 'take an hour or two during work to attend to family or personal matters' (48 per cent of women compared to 29 percent of men); at the same time, both paid leave and flexibility were cited by carers as the most useful forms of support (Austin and Heyes, 2020). Not being required to take a whole day enables carers to attend appointments for example, without worrying about using up the leave allowance too quickly.

Regarding D12, policy varies internationally on the notice required for care leave (some 'as soon as possible' in the case of emergency leaves whilst planned leaves require written notice in advance; Hamblin et al., 2024). We would argue that some notice will be helpful for employers but there the ability to take emergency leave (under the Employment Relations (Northern Ireland) Order 1999) should be retained alongside carers leave.

We endorse the idea that employees accessing carers leave should have the same protections as those using other forms of leave (D13). Carers face a multitude of disadvantage in terms of their financial position, health and wellbeing (Bennett et al., 2020a, b, c); further compounding this by not offering protection to those using carers leave would be unjust. In addition, some nations (e.g. Australia and Japan) make a distinction between 'workers' and 'employers' in terms of access to paid carers leave, with the former often barred. This again results in a segmented labour market, with those in more insecure work also excluded from support to combine work and care. A further example of uneven access is Germany, where employees from Small- and Medium Enterprises (SMEs) are unable to access some carers leave policies; women are more likely to be employed in these kinds of companies, as well as to be carers.

Process

We strongly recommend that carer's leave is available from the first day of employment for all carers.

Employers need to ensure all employees are aware of the policy and that line managers are trained to respond sensitively and appropriately to carer's needs. In linked guidance employers should be encouraged to offer a full suite of policies to support working carers.

Other carer-friendly policies on flexible working:

Employers could also be offered advice on how to introduce other schemes such as:

- Longer term carers leave that allows amendment of contractual work patterns to accommodate an employee's family life and work requirements, for an agreed period.
- An option to take a longer period of unpaid carers leave (e.g. for up to 12 weeks in one leave year, in blocks of (no less than) one week). Employees can choose if salary reduction is reflected immediately, or spread over up to 12 months.

- Allowing employees to purchase a specified number of additional days of annual leave per year, which can be paid for over 12 months.