Carer's Leave Procedure

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Related Documents	Carers Leave Application Form

Section One

Procedure Statement

The University of Limerick (the University) is committed to supporting employees balance their work and care recipient commitments provided for under the Carer's Leave Act 2001.

Purpose

To set out the University's procedure on Carer's Leave and to define the implementation of this leave under the Carer's Leave Act, 2001 and the Social Welfare Law Reform and Pensions Act 2006.

Procedure Scope

All employees who are in the continuous employment of the University for a minimum of twelve (12) months are eligible to apply for Carer's Leave.

1. Definitions

1.1. Carer's Leave

'Carer's Leave' is a temporary unpaid absence from work for the purpose of personally providing full-time care to a Relevant Person in need of full-time care and attention. A Deciding Officer from the Department of Social Protection will be responsible for ascertaining the validity of a Relevant Person in this regard.

1.2. Relevant Person

A care recipient will be considered to be a 'relevant person' if they need full-time care and attention as defined by the Department of Social Protection.

In general, the carer must live with the relevant person. However, if the carer is not living with the relevant person the following conditions must be met:

- The carer must be providing full-time care and attention.
- There must be a direct system of communication between the carer's residence and that of the care recipient this could be in the form of a telephone or alarm system; and
- The care recipient must not already be receiving full-time care and attention within their own residence from another person.

1.3. Second Relevant Person

An employee may, while on Carer's Leave in respect of one relevant person, apply for Carer's Leave for a second relevant person, where that person resides with the first relevant person, to a maximum of 208 weeks in total. This second person is defined as the 'second relevant person'.

1.4 Full-time Care and Attention

'Full-time care and attention' is defined as meaning that a person being cared for must be in such need for full-time care and attention as to require:

- Continuous supervision and frequent assistance throughout the day in connection with their normal personal needs, e.g. help to walk and get about, eat or drink, wash, bathe, dress etc., and/or
- Continuous supervision in order to avoid danger to themselves.

2. Eligibility for Carer's Leave

2.1. An employee who wishes to avail of Carer's Leave must satisfy the following conditions:

- Service Requirement - An employee may apply for Carer's Leave where they have completed one year's continuous service with their employer and have obtained a determination by a Deciding Officer (or Appeals Officer) of the Department of Social Protection (DSP). In addition, temporary staff employed under a fixed-term/specific purpose contract of employment are entitled to apply for Carer's leave for the period of the fixed term or specific purpose, as set out in their contract of employment, subject to meeting the service requirement as outlined above.
- The staff member must be providing full time care and attention for a Relevant Person, as authorised by a Deciding Officer of the Department of Social Protection.
- The relevant person the employee will be caring for does not have to be a family member or spouse but can be a friend or colleague. They must, however, be deemed to be in need of full-time care and attention by a Deciding Officer (or Appeals Officer) of the Department of Social Protection (DSP). The decision of the Deciding Officer, (or Appeals Officer), will be based on Carer's Leave Procedure information provided by the relevant person's medical doctor and assessed by the DSP's medical advisor.

2.2. Where an employee has been appointed for a fixed-term contract, and their employment would have terminated on the expiry of that fixed-term contract had they not been on Carer's Leave, the period of Carer's Leave shall not extend beyond the day on which the fixed term expires. For the avoidance of doubt, the granting or taking of Carer's Leave shall not affect the date of termination of the fixed-term appointment upon which the employee was engaged at the time of taking Carer's Leave.

2.3. In instances of specified purpose contracts, upon the taking or granting of Carer's Leave, the University may assign said purpose to another member of staff or any other action it considers appropriate to the circumstances. Such action may include the non-continuation of the purpose upon which the formed the basis of the contract, depending on the circumstances.

3. Period of Carer's Leave

3.1. The minimum duration of Carer's Leave is thirteen (13) weeks, and the maximum duration is one hundred and four (104) weeks.

3.2. A period of Carer's Leave may be taken in one of the following ways:

- One continuous period of 104 weeks for *each* relevant person; or
- One or more periods of at least thirteen weeks in duration which does not exceed a total of 104 weeks.

3.3. Where Carer's Leave is not taken by an employee in one continuous period of 104 weeks, there must be a gap of at least six (6) weeks between periods of Carer's Leave taken in respect of the same relevant person.

3.4. Where an employee has availed of Carer's Leave for one relevant person and needs to avail of further leave for another relevant person, in circumstances where those two individuals do not reside together, then a period of six months must elapse from the date of the termination of the leave in respect of the first person before a further period of Carer's Leave can commence for the second relevant person. This regulation applies even if the employee has not taken the maximum period of 104 weeks of Carer's Leave for the first relevant person. This provision does not apply where two relevant persons reside together.

Working while on Carer's Leave

3.5. While on Carer's Leave, an employee may:

- Work for up to 18.5 hours a week, provided their income from employment or self-employment is less than the weekly income limit set by the DSP. Such work must be approved by the University in advance of its performance; or
- Attend an educational or training course or take up voluntary or community work for a maximum of 18.5 hours a week.
- Colleagues are advised to liaise with DSP, their line manager and HR on the above.

4. Change in circumstances

4.1. An employee is required to notify the University of Limerick of any change of circumstances that affect their entitlement to Carer's Leave and/or any changes in the circumstances of the Carer's Leave itself.

4.2. With the agreement of University of Limerick and the employee, the leave may be postponed or curtailed, or the form in which the leave is to be taken may be varied. The formal confirmation documents should be amended to reflect new agreement and signed by the employee and the University.

4.3. Generally, a period of Carer's Leave shall terminate in the following circumstances:

- On the date specified on the confirmation document.
- Where the relevant person being cared for ceases to need or meet the requirements for the provision of full-time care and attention.
- On the date notified to the employee by University of Limerick to return to work, following a decision of a Deciding Officer (or Appeals Officer) that the leave should end;
- On a date agreed between the University and the employee (subject to the maximum entitlements); or
- Where the relevant person being cared for passes away, the Carer's Leave will end six (6) weeks after the death or on the date specified in the confirmation document, whichever is earlier.

4.4. University of Limerick may curtail or postpone Carer's Leave if it is the opinion that any of the following circumstances exist:

- The person in respect of whom the employee proposes to take Carer's Leave is not or is no longer a relevant person;
- The person in respect of whom Carer's Leave has been granted, and in respect of whom the employee is on Carer's Leave, is not or is no longer a relevant person;
- An employee who proposes to take or is on Carer's Leave does not satisfy the condition for providing full-time care and attention to the relevant person; and/or
- The employee who proposes to take or is on Carer's Leave is engaging or has engaged in employment or self-employment without prior approval from the University or employment other than as provided for in the regulations made by the Minister for Social Protection, then the University of Limerick, in its capacity of employer, shall notify the DEASP of such opinion together with the grounds for that opinion.

5. Protection of Employment Rights

5.1. During an absence on Carer's Leave, an employee is regarded as remaining in the employment of the University of Limerick and retains all employment rights, other than;

- their entitlement to remuneration while on Carer's Leave;
- superannuation benefits or any obligation to superannuation benefits; or any obligation to pay contributions in, or in respect of, their employment.

5.2. Carer's Leave will not count as service and will not reckon for increment or pension purposes.

5.3. Annual leave accrues for the first 13 weeks of Carer's Leave.

5.4. Public holidays accrue for the first 13 weeks of Carer's Leave.

5.5. Employees are protected against being disadvantaged for taking Carer's Leave or proposing to take it.

5.6. The University of Limerick will suspend a period of probation while the employee is on Carer's Leave.

Section Two

6. How to Apply for Carer's Leave

6.1. An employee wishing to avail of Carer's Leave must first apply to the DSP for a decision by a Deciding Officer (or Appeals Officer).

6.2. To apply for the decision, an employee should obtain the form CARB1, available at www.welfare.ie, and arrange for its completion and return to the address detailed on the CARB1 form.

6.3. An employee can only be on Carer's Leave for one relevant person in need of full-time care at any one time. However, if two (2) people live together and are both in need of full-time care and attention, as approved by the DSP, an employee may apply for Carer's Leave for both people. In such circumstances, an overall total amount of Carer's Leave of 208 weeks can be taken together (104 weeks for each relevant person).

6.4. Before an employee may commence Carer's Leave, they must provide the Compensation & Benefits Section with a copy of the decision of a Deciding Officer (or Appeals Officer) of the DSP, that the relevant person has been medically certified as needing full-time care and attention. This may be emailed to compandbens@ul.ie together with a completed Carer's Leave application form available at this link.

6.5. At least six (6) weeks before the employee proposes to take Carer's Leave, they must submit a formal application to Human Resources requesting this leave. In exceptional or emergency circumstances, where it is not reasonably practicable to give six (6) weeks' notice, the employee must give as much notice as is reasonably possible.

6.6. The application for Carer's Leave must be in writing and specify:

- The date on which the employee intends to commence Carer's Leave;
- The duration of the leave;
- The manner in which the employee proposes to take the leave;
- Confirmation that the employee has applied to the Department of Social Protection for a decision confirming that the person they will be caring for is a relevant person; and
- The employee's signature and date.

7. Confirmation of Carer's Leave

7.1. Once an employee has provided the University with the decision, from the Deciding Officer / Appeals Officer, that the care recipient they propose to avail of Carer's Leave for is a relevant person, both the employee and the University shall then prepare a confirmation document.

7.2. The confirmation document will be prepared by Human Resources no later than two weeks before the leave is due to begin and will include the following details:

- The date on which the leave period will commence;
- The duration of the period of leave; and
- Signatures of the Director of Human Resources or their nominee and the employee.

7.3. The confirmation document, once signed by the employee and the University, may only be altered by agreement with both parties.

8. Revocation of Notice

8.1. An employee may revoke, in writing, their notice to take Carer's Leave at any time before the confirmation document is signed. Where the leave is revoked, it may not then be taken on the date specified in the confirmation document.

9. Employer Discretion

9.1. Where an employee takes leave purporting to be Carer's Leave but has not complied with the notification procedures above, the University of Limerick may, at its discretion and where possible, treat the leave as Carer's Leave; the University will be flexible in such instances where circumstances support the use of such discretion. It is also open to the University to refuse to treat the leave as Carer's Leave, on reasonable grounds. In that event, the University must specify the reasons in writing for such refusal.

10. Returning to Work

10.1. An employee who is on Carer's Leave is required to give to the University notice in writing of their intention to return to work, not less than four (4) weeks before the date they are due to return to work. Where an employee does not return to work following the ending of their Carer's Leave and does not notify the University of their intention to return to work, the employee will be considered to have resigned.

10.2. An employee is entitled to return to work after the end of a period of Carer's Leave to the University in the job held immediately prior to the leave and under the same terms and conditions of employment. If the job held by the employee before commencing Carer's Leave was not their normal or usual job, the employee shall be entitled, following a period of Carer's Leave, to return to that job, or to their normal or usual job, as soon as is reasonably practicable.

10.3. In the event of exceptional circumstances applying where it is not reasonably practicable for the employee to return to the job held immediately prior to the leave, the University will undertake all reasonable efforts to find an alternative role for the employee. Continuity of employment shall be preserved for the duration of these reasonable efforts.

10.4. When an employee returns to work, the University shall notify the Carer's Benefit Section of the Department of Social Protection in writing that the period of Carer's Leave has ended; the employee has returned to work, and the date of return to work.

11. Records of Carer's Leave

11.1. The University will keep records of Carer's Leave taken by employees, specifying the period of employment for each employee, and the dates and times of the leave taken in line with its Data Retention Policy.

12. Payroll Deductions

12.1. Deductions from salary cease when an employee goes on Carer's Leave. It is the sole responsibility of the employee availing of Carer's Leave to ensure that all deductions they have in place do not lapse and they should engage with the relevant provider as appropriate.

13. Protection from Penalisation

13.1. An employer cannot penalise an employee for exercising or proposing to exercise an entitlement to Carer's Leave. Penalisation could include dismissal, unfair treatment of the employee, including unfair selection for redundancy, or an unreasonable change to the employees' terms and conditions of employment.

Section Three

14. Roles and Responsibilities

14.1. Heads of Department/Dean/Director

Senior Management have a responsibility for ensuring this procedure is applied consistently and fairly across their part of the University. In addition, senior management are responsible for:

- The dissemination of this procedure within their department; and
- Liaising with the Human Resources Division to seek advice and guidance on the underpinning legislation to this procedure and the implementation of the procedure.

14.2. Human Resources (HR) Division

The Human Resources Division is responsible for:

- Carrying out reviews of the Carer's Leave procedure to ensure its alignment with relevant legislative provisions; and
- Providing advice and guidance to Heads of Departments on the content and implementation of the procedure.

14.3. Employees of the University of Limerick

Each employee who is seeking or is absent from the University on Carer's Leave is responsible for adhering to the provisions of this procedure.