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Productivity Commission
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Carers NSW welcomes the opportunity to provide a submission in response to the Productivity Commission issues paper on Carer Leave.

About Carers NSW

Carers NSW is the peak non-government organisation for carers in New South Wales (NSW). A carer is any individual who provides care and support to a family member or friend who has a disability, mental illness, drug and/or alcohol dependency, chronic condition, terminal illness or who is frail. Carers NSW is part of the National Carer Network and a member of Carers Australia. Our vision is an Australia that values and supports all carers, and our goals are to:

- Be a leading carer organisation in which carers have confidence
- Actively promote carer recognition and support
- Actively support carers to navigate a changing service landscape that will be characterised by ongoing policy reform
- Promote connected community experiences and opportunities for carers that are inclusive of diverse carer groups
- Lead and advocate for carer-specific and carer-inclusive policy making, research and service delivery
- Continue to be a quality-driven, responsive and carer-focused organisation.

About this submission

This submission focuses on who should be able to access extended carer leave and how this leave should be structured. It is based on extensive stakeholder consultation and analysis of data from the three most recent biennial Carer Surveys conducted by Carers NSW: the 2018 Carer Survey (n=1,830), the 2020 National Carer Survey (n=7,735) and the 2022 National Carer Survey (total respondent count pending and due by mid-October 2022, with estimated n=>7,000).

In preparing this submission, Carers NSW consulted with 3 individual carers, 4 employers, 3 peak organisations and 4 researchers. We also worked in collaboration with the National Carer Network in developing our response, and accordingly endorse the forthcoming Carers Australia submission in response to this issues paper.

Thank you for accepting our submission. For further information, please contact Melissa Docker, Senior Policy and Development Officer phone (02) 9280 4744.

Yours sincerely,

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Carers NSW

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Carers NSW submission: Carer leave issues paper

1. Introduction

Carers NSW thanks the Productivity Commission for the opportunity to provide feedback on the proposal to create an entitlement for carers to take extended unpaid leave from work to care for a person who is frail or ageing and living at home. We are strongly supportive of evidence-based initiatives that aim to improve employment outcomes for carers and to better support carers to balance work and care. We therefore welcome the thorough investigation by the Productivity Commission of the potential to expand current carer leave entitlements to better meet need.

This submission draws on Carers NSW extensive evidence base and our expertise working with carers and employers to highlight the importance of using this opportunity to create a flexible and holistic design that has maximal benefit for the many and diverse carers across Australia. Rather than systematically address the specific questions included in the issues paper, Carers NSW has presented detailed evidence, policy analysis and recommendations to inform who can access extended carer leave provisions, and how these provisions should be structured.

The main focus of our submission is on the following principles:

- Existing carer leave entitlements should be expanded to benefit more carers
- New carer leave entitlements must include eligibility to access financial support
- Access to new carer leave entitlements should not be restricted based on the age of the person receiving care
- Carer leave entitlements must be flexible, equitable, enforceable and widely promoted
- Carer leave entitlements must be complemented by stronger entitlements regarding access to flexible working arrangements, and improved provision of formal care services

The introduction of extended unpaid carer leave has the potential to assist carers in managing work and care responsibilities, particularly at times when caring demands need to be prioritised over employment. However, Carers NSW believes that before further developing provisions for extended unpaid carer leave, the Productivity Commission must undergo further examination of the uptake and effectiveness of existing carer-focused employment policy, and conduct thorough user testing of extended leave options with a range of diverse carers.

This inquiry presents an unprecedented opportunity to significantly improve the capacity of carers to remain in the paid workforce and achieve greater long-term financial stability. Carers NSW wishes to caution that it is imperative any newly introduced entitlements do not unintentionally disadvantage women, who provide the largest portion of care, and are not viewed as an alternative to addressing major systemic shortcomings in the provision of formal care services.

Furthermore, it is Carers NSW position that, while additional carer leave entitlements may incur a financial cost to governments, employers and taxpayers, this cost should be balanced against the personal and financial costs borne by carers who have to reduce their workforce engagement, as well as the financial costs to employers and the welfare system when carers are unable to remain in the paid workforce.

Finally, while enabling carers to sustain paid work and care is likely to have a positive effect on the economy and on the long-term sustainability of formal care service systems, the key aim of any such initiatives should be supporting the optimal health and wellbeing of carers and the people they care for.

2. Carers and employment

Employment is critical in promoting independence and financial stability, and also supports social and community engagement and a sense of meaningful contribution. While many carers are unable to, or choose not to, engage in paid employment, many others do balance their caring responsibilities with paid work. Balancing care and paid work can be a choice, for example, in order to maintain an identity separate from the caring role, but is more often a financial necessity to meet the costs of daily living and the additional costs of caring.

This section examines who carers are and what they do, as well as how caring impacts employment. Its aim is to highlight the importance of properly defining ‘carer’ when examining and expanding carer leave entitlements, and to argue for the inclusion of carers of all ages in any newly added provisions. It also seeks to establish the importance of flexible models for additional carer leave, and argues for financial support to be integrated into these models.

Who should be able to access carer leave?

Anyone can become a carer at any time, and carers are highly demographically diverse, as are the people for whom they care. The Commonwealth *Carer Recognition Act 2010* defines a carer as an individual who provides personal care, support and assistance to another individual who needs it because that other individual has a disability, medical condition (including a terminal or chronic illness), mental illness or who is frail/aged. Carers NSW believes that it is crucial that this broad and inclusive definition form the basis for entitlements to carer leave.

The national Carer Gateway¹ service system introduced in 2020 also determines eligibility for support based on a carer’s provision of care to a family member or friend, rather than restricting access based on the condition or age of the care recipient, as has generally been the case within the formal care service sectors. While carers of older Australians form a large and significant proportion of the carer population and the labour force, creating carer entitlements that are not available to the hundreds of thousands of other carers will limit the reach and impact of these entitlements, and creates an arbitrary and discriminatory distinction between elder care and other forms of care.

Australian Bureau of Statistics (ABS) data and data from Carers NSW biennial Carer Surveys clearly indicate that certain cohorts of carers – both in terms of carers’ own demographic characteristics and the characteristics of the people they care for – have distinct experiences and support needs. However, this data also shows that carers of people of all ages and conditions require support with caring tasks, economic and social participation, and health and wellbeing.

Table 1: Impacts of caring on work, Carers NSW 2020 National Carer Survey²

Impacts of caring on work	Caring for someone under the age of 65	Caring for someone aged 65+	Total
I quit working or looking for work to be able to care	31.5%	22.0%	27.5%
I retired earlier than anticipated to be able to care	13.7%	21.6%	17.0%
I have reduced my working hours	32.7%	20.0%	27.3%
My skills and qualifications have become out of date due to time out of the workforce	28.1%	15.2%	22.7%
I feel less prepared to meet the demands of my job	21.5%	11.8%	17.4%

¹ www.carergateway.gov.au.

² Carers NSW (2020a) *2020 National Carer Survey, Unpublished data*.

While we understand that the present inquiry is borne out of aged care reforms, Carers NSW strongly urges the Productivity Commission to recommend that the scope of expanded carer leave entitlements include all carers, not just those who are not caring for an older Australian. Table 1 indicates that the impacts of caring on employment may even be more pronounced for carers of Australians under the age of 65.

In addition, it is critical that any new provisions not create an artificial distinction between paid work and care. Many Australians already provide informal care to a loved one, long before they identify themselves as a carer, or consider the relationship to the care recipient as a caring relationship. Especially in the context of ageing, becoming an informal carer is in most cases not a decision made at a clearly discernible point in time, but rather a point in an ongoing transition, which often only is identified in retrospect. These transitions or care pathways may be linear or non-linear, and carers may provide episodic instances of care for many years before a pattern of caring is established.

For most carers in paid work, focusing on one or the other is neither necessary nor sustainable. Data from the ABS 2018 Survey of Disability, Ageing and Carers (SDAC)³ also indicates that caring responsibilities are often not a 'choice' per se, and are largely associated with a sense of familial obligation and the belief that they could provide better care (see Table 2). Similarly, working is often not a 'choice' due to the financial demands of caring, detailed in later sections of this submission.

Table 2: Primary carers, reasons for taking on caring responsibilities by relationship to care recipient -2018 (Table 39.1)⁴

	Partner of recipient	Child of recipient	Parent of recipient	Total
PROPORTION OF PERSONS (%)				
All primary carers				
Could provide better care	52.1	38.8	50.9	46.2
Family responsibility	66.8	78.6	71.5	70.0
No other family or friends available	28.7	41.2	24.8	31.5
No other family or friends willing	13.6	29.4	17.6	20.6
Emotional obligation	46.8	51.4	45.3	46.6
Alternative care too costly	23.1	19.4	23.3	21.0
No other care arrangements available	13.5	15.1	22.0	16.5
Had no other choice	21.8	14.4	34.3	21.9
Other reason	5.2	4.7	9.7	6.5
Total number of persons ('000)	315.2	226.0	233.5	861.6

Further, many industries, occupations and workplaces are able to accommodate employees with caring responsibilities without them having to take an extended break, and would view this continued workforce participation as less disruptive and costly to their business overall. Carer leave entitlements should therefore be flexible to accommodate different caring arrangements, as well as different working arrangements, in order to increase reach and impact and provide carers and their employers with a level of autonomy in determining optimal solutions to sustain paid employment.

How should carer leave be structured?

With increasing numbers of older people choosing to remain at home while they age, ongoing impacts of COVID-19 on service delivery, and increasing care workforce shortages, carers are managing increasingly intensive and complex responsibilities. This often includes providing extensive support

³ Australian Bureau of Statistics (ABS) (2019) *Survey of Ageing, Disability and Carers 2018*, TableBuilder Dataset. Australian Government, Canberra. Available online at: www.abs.gov.au.

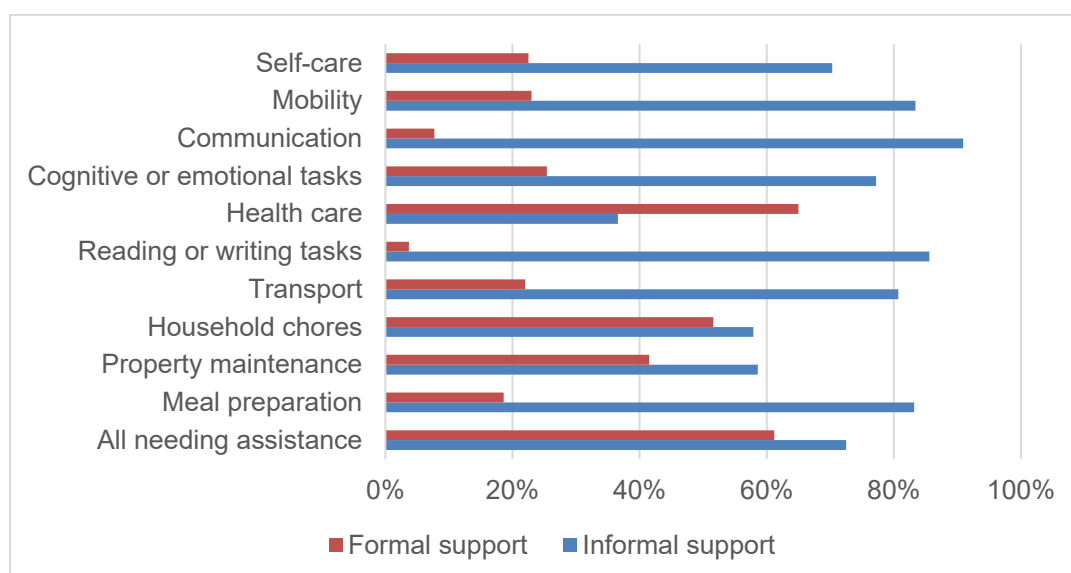
⁴ Ibid.

with the planning and coordination of services, which can be very time consuming as well as mentally and emotionally demanding. Poor integration between service systems and limited service availability, exacerbated during the pandemic, have only further increased the administrative strain associated with coordinating care services.

In order to stay connected to the labour force, carers need to have the time and energy to undertake these tasks. For some carers, this will be periodic, in smaller time periods. For other carers, it will require more regular, or longer-term periods of concentrated effort. Appreciating the diversity and complexity of caring roles will be critical in designing effective additional carer leave entitlements. It is also crucial to recognise that carers are often supplementing or replacing support that could be provided by formal services, but is not available, or not desirable.

The 2018 SDAC⁵ indicated that informal supports provide a greater proportion of assistance than formal supports for all tasks except for health care, which is likely provided predominantly by health and medical professionals (see Figure 1). Of those over the age of 65 requiring assistance, 1.8% received only formal care, 36.6% only informal care, 62.5% both formal and informal care.⁶

Figure 1. Assistance received with tasks⁷



While there is a degree of substitutability in formal and informal care, as noted in the issues paper, the performance of these tasks by informal carers can be detrimental to both informal carers and the people they care for. Unlike paid care workers providing formal services, informal carers do not have access to education or training, workplace support such as supervision or Employment Assistance Programs, or insurance for illness or injury. Informal carers are also unable to access financial remuneration at the same level as paid care workers or accrue superannuation while providing unpaid care, despite their significant contributions to the community.

Carers often also provide a significant amount of care to people in residential care, at times more so than they had been providing in the home or community. The Royal Commission into Aged Care Quality and Safety highlighted the significant workforce and resource shortages within residential aged care that have resulted in low quality, unsafe care within some residential care settings.⁸ Many carers continue to provide high levels of care with daily activities such as feeding and bathing, as well

⁵ ABS (2019).

⁶ Ibid.

⁷ Ibid.

⁸ Royal Commission into Aged Care Quality and Safety (RCAC) (2021) Final Report: Care, Dignity and Respect, available online at: <https://agedcare.royalcommission.gov.au/publications/final-report>, viewed 25 August 2022.

as the coordination of health and medical appointments. Travel time to visit residential aged care facilities, particularly in regional and rural areas can also place further strain on a carer's time, especially if they are already time poor.

The amount and length of time dedicated to caring varies widely across carer cohorts and can significantly impact whether carers can sustain paid work, and what kind of paid work they can engage with. This means that carer leave entitlements must be designed to accommodate differently structured leave requirements and not necessitate a solid 'block' of leave.

It is also important that existing and additional leave entitlements be both available and accessible to carers in precarious employment. Many carers require flexible casual employment to accommodate their caring responsibilities while meeting their living expenses, and as a result lack leave provisions, job security, or income protection.

Should additional carer leave be unpaid?

Caring can come with significant financial costs. In addition to limited opportunities to participate in the workforce and access associated earnings and employer superannuation contributions, many carers face day to day expenses associated with their caring role that can further limit their ability to absorb financial shocks or save for retirement. These expenses can include health care fees, medicine costs, purchase and maintenance of aids and equipment, home modifications, transport fees and formal community care costs or co-contributions. Carers may also have higher utility costs and wear out white goods more quickly due to additional laundry, heating or cooling necessary to meet the needs of the person they care for. Nearly 2 in 3 respondents to the 2020 National Carer Survey reported that they contribute financially to the costs of medicine for the person they care for, and 1 in 2 contribute to their transport costs.⁹

In addition to incurring costs directly related to supporting the person they care for, carers are also themselves often significantly financially disadvantaged and, due to the often long-term nature of caring, experience accumulated economic disadvantage. Slightly more than 50% of all carers live in a household in the lowest two income quintiles, which is double the rate of non-carers.¹⁰ Working age carers (15-64 years) are also more likely to receive government payments or allowances as their main source of income compared to non-carers of the same age (24.3% and 9.3% respectively).¹¹ If additional carer leave is unpaid only, there is a great risk that financially disadvantaged carers will either not take up the opportunity, or experience financial hardship as a result. Integrating financial support options into any additional carer leave entitlements is therefore critical.

Furthermore, analysis by Evaluate, outlined in the *Caring Costs Us* report, showed that primary carers will lose on average \$392,500 in lifetime earnings and \$175,000 in superannuation at age 67.¹² Some people who care for extended periods of time will lose substantially more, with the most affected 10% losing at least \$940,000 in lifetime income, and \$444,500 in retirement savings.¹³ The report also found that lifetime earnings are reduced by \$39,600 for every year that someone is a primary carer, indicating that for many carers who have been caring from their mid-thirties or forties, there are significant lifetime impacts that may act as a key contributing factor in long term financial insecurity and inequity into retirement. As well as replacing the income that carers may forgo in taking up new,

⁹ Carers NSW (2020b) 2020 National Carer Survey, Summary report, available online at: https://www.carersnsw.org.au/uploads/main/Files/5.About-us/Our-research/Summary_Report_HighRes.pdf, viewed 25 August 2022.

¹⁰ ABS (2019).

¹¹ Ibid.

¹² Evaluate (2022) *Caring Costs Us: The economic impact on lifetime income and retirement savings of informal carers*, available online at: <https://www.carersaustralia.com.au/wp-content/uploads/2022/04/Final-Economic-impact-income-and-retirement-Evaluate-Report-March-2022.pdf>, viewed 25 August 2022.

¹³ Ibid.

extended unpaid carer leave options, implications for retirement income should also be considered, with continuous superannuation contributions seriously considered.

Ensuring that financial support is offered alongside carer leave will be particularly crucial in ensuring that women are not further disadvantaged. Women are statistically far more likely to take on more intensive caring roles¹⁴ in response to social conventions and expectations, and are also far more likely to take time out of work, exit the labour force, work part time, and work in casualised, lower paid occupations and industries in order to care.¹⁵ This dynamic, alongside the impact of child care on workforce participation, is a key contributor to the well-established disadvantage women experience in relation to income level, asset ownership and superannuation balance.¹⁶

Men are also twice as likely to be denied or experience stigma or exclusion when accessing flexible working arrangements¹⁷ and as a result, some male carers may be required to retrain and seek work in different sectors, or leave the workforce altogether. This dynamic also reinforces the gendered nature of care, incentivising women to reduce their workforce engagement to care as male carers cannot access the same levels of understanding or flexibility.

Carers NSW is also concerned that women may be disproportionately represented in those taking carer leave due to entrenched gender ideologies and power structures within romantic and familial relationships, and in so doing further disadvantage women in other, less apparent ways such as hindering career advancement and promotion and further limiting the accumulation of superannuation.

3. Existing employment entitlements

Carers NSW understands that this inquiry is primarily focused on determining the effectiveness of an entitlement to extended unpaid carer leave. However, Carers NSW believes that the Productivity Commission must approach employment supports for carers more holistically in order to ensure the effectiveness of current and future carer-focused employment policy.

A key element of this will be developing a thorough understanding of existing policy and programs aimed at supporting carers to participate in economic activities and evaluating the effectiveness of existing support. In addition to this, Carers NSW encourages the Productivity Commission to conduct thorough user testing with carers in relation to any proposed additional support options, such as an extended period of unpaid leave.

As noted in the issues paper, there are already a number of measures and initiatives in place that aim to support carers in Australia to balance care and work. These include existing provisions in the National Employment Standard (NES) that create paid and unpaid carer leave entitlements, and the right to request flexible working arrangements. In NSW, the *Anti Discrimination Act 1997* also prohibits discrimination against employees or potential future employees on the grounds of their caring role or responsibilities. The *Carer Recognition Act 2010* (Cth), and equivalent legislation in

¹⁴ ABS (2019).

¹⁵ ABS (2019); Carers NSW (2020); Finance and Public Administration References Committee (2017) *Gender segregation in the workplace and its impact on women's economic security*, Commonwealth of Australia, Canberra; WGEA Data Explorer (2016), *Health Care and Social Assistance summary for 2015*, available online at: <http://data.wgea.gov.au/industries/7>, viewed 19 February 2018.

¹⁶ Durie, T. and Cavanough, E. (2017) *Guaranteeing Women's Super: How to close the gender gap in superannuation*, The McKell Institute, Sydney.

¹⁷ Bain & Company (2016), *The power of flexibility: A key enabler to boost gender parity and employee engagement*; Diversity Council Australia (2021), Inclusion@Work Index: Mapping the state of flex in the Australian workforce. Available online at: https://www.dca.org.au/sites/default/files/report_inclusionatworkmappingthestateofflex_20211012.pdf

NSW, also creates requirements for public sector agencies in relation to employed carers, however there is no mechanism for enforcing this requirement.

Despite a number of existing arrangements, carers continue to report significant difficulty balancing paid work and care. This is often the result of:

- limited awareness of carer-focused employment policy
- restrictive definitions of 'carer' and 'caring' within existing NES entitlements
- difficulty evaluating uptake and effectiveness of existing policy measures due to limited data collection and reporting
- ongoing stigma and discrimination in the workplace
- a lack of enforceability of existing legislative provisions
- power imbalances within the workplace, especially for those in low-paying or insecure employment which can limit carer bargaining power or willingness to seek redress
- the exclusion of casual employees from paid carer leave provisions.

Furthermore, many carers experience financial hardship which limits their ability to utilise available leave and flexible work provisions as they cannot afford to forgo any hours of paid employment.

"In the past I have used up all my annual leave and sick leave providing care for others. I have not had enough time or energy to undertake study to put myself in a better position. I have suffered Carer burnout a few times which has made it extremely difficult at work. In my previously position I did not feel I could confide in my work supervisor or colleagues for emotional and practical support. I struggle to find time to look after myself, self-care is challenging. I recently changed jobs so that I could work in an environment where my situation could be known and used to the benefit of others. It is also a position that allows me to continue learning and growing. This helps me professionally and personally, and assists me to manage in my Caring role... This new position is much more accommodating to my caring needs and has been more supportive with flexible arrangements. This is largely down to my immediate supervisor and could change."

- Carers NSW 2022 National Carer Survey (full results not yet published)

While Carers NSW can provide some insights into the accessibility and effectiveness of existing arrangements, there is limited data available that enables thorough evaluation of these measures. Carers NSW recommends that the Productivity Commission conduct further investigation in this area to inform the next stage of the inquiry.

Barriers to effectiveness of existing provisions

Limited awareness

Ongoing low levels of carer recognition in the community and by employers can limit the ability of carers to access available entitlements. Limited carer awareness or recognition by employers may also result in inadequate support within the workplace, especially where the intensity and complexity of a caring role is difficult to relay to an employer without breaching the privacy of the person receiving care. Additionally, limited carer identification can reduce a carer's ability to locate information on, or request access to, entitlements that may be available to and intended for them.

Carers NSW has also heard from carers that employment entitlements are not generally well known or understood by carers or employers. Carers may be unaware of their entitlements or have limited

understanding of the redress pathways available to them where they are unable to access these entitlements or feel discriminated against for doing so. Currently, there is no central place carers can access to fully understand their rights or redress pathways within the employment context.

The Carers NSW *Carer Rights and Complaints Network* developed a fact sheet in 2020 on carer rights in employment¹⁸ as part of a broader 'Know Your Rights' series. The fact sheet aims to centralise information on carers employment rights in lieu of an existing centralised information point. While the fact sheet does speak to some rights which apply to all carers in Australia, some information is NSW specific, especially in relation to anti-discrimination legislation. Carers may also require support to seek redress where their employment rights have not been upheld. However, at this time, there are no carer-focused individual advocacy programs to provide such support.

Restrictive definitions of carers and caring

A key barrier to existing carer employment entitlements is the restrictive definition of caring within the NES which may exclude a significant proportion of carers if applied stringently. The *Carer Recognition Act 2010* (Cth) provides a clear definition of a carer, which is generally applied in the development of carer policy and programs. However, the NES contradicts this definition with respect to existing carer leave entitlements, restricting care to that only of an immediate family or household member due to injury, illness or emergency.

The definition used within the NES therefore excludes care provided to extended family members or friends, and the provision of routine care such as support with activities of daily living or attending appointments. While employers may apply the definition more broadly than that stated in the NES, this is at an employer's discretion and is often reliant on their awareness and understanding of caring. Furthermore, differing definitions of carers and caring between the NES and carer recognition legislation may be confusing for carers themselves and create greater difficulty in understanding their entitlements.

Limitations for casual employees

Many carers are engaged in casual or contract employment as this is the only way that they can access adequate flexibility to balance work with their caring role. However, this restricts their access to paid carer leave entitlements under the NES as these are only available to full- and part-time employees. This means that casually employed carers, who are already more likely to experience insecure income due to the nature of casual employment, must forgo income on accessing leave associated with their caring role or responsibilities. While some Governments have recently established initiatives to provide paid carer leave for casual employees, these are currently geographically and situationally based.

The combining of sick leave and carer leave

Caring can involve significant emotional investment and physical activity, which, combined with minimal breaks, can take its toll on carers' physical and mental health. Unlike paid care workers performing similar tasks, health and safety protocols, injury insurance and break entitlements are completely unavailable to family and friend carers.¹⁹ As a result, carers have higher rates of long-term illness and disability than non-carers and experience considerably higher emotional distress.²⁰ They also tend to neglect their own physical and mental health in order to prioritise that of the person they

¹⁸ Carers NSW (2021) *Know Your Rights fact sheet 7: Your rights at work*, available online at: https://www.carersnsw.org.au/uploads/main/Files/2.Services-and-Support/Advice-for-Carers/Rights-and-Complaints/Carers-Fact-Sheet-7-Your-rights-at-work_V2.pdf, viewed 25 August 2022.

¹⁹ Carers NSW (2017), *A just reward? A comparison of paid and unpaid care*, available online at: <https://www.swsldh.health.nsw.gov.au/Carers/content/pdf/AJustReward.pdf>, viewed 25 August 2022.

²⁰ ABS (2019); Carers NSW (2020b).

care for.²¹ It is therefore critical that current and future carer leave entitlements be distinct from sick leave and be supported by adequate formal services to support carers and care recipients.

Carers NSW has heard from many carers that the current combined nature of paid sick and carer²² leave has limited their ability to manage their own health and wellbeing. Many carers report using all of their sick and carer leave entitlements to provide care, leaving them with no sick leave to meet their own health needs.

"I found I was taking more and more time off work to attend appointments, and had no personal leave left when I actually got sick"

- Carers NSW 2022 National Carer Survey (full results not yet published)

The combination of sick and carer leave also limits the ability to collect data and report on uptake and use of carer leave within organisations and enable evaluation of the adequacy and effectiveness of paid carer leave provisions. Carers NSW has heard from employers engaged in the Carers + Employers program,²³ that they are unable to determine uptake of carer leave as this is often reported internally under 'personal leave', which also includes sick leave.

Inadequacy of existing entitlements

Carers can currently access some minimal leave provisions for providing care, both paid and unpaid. However, many carers report to Carers NSW that current provisions do not provide adequate leave to fulfil their caring responsibilities. Many carers report to Carers NSW that when they have exhausted their sick and carer leave, they often access their annual leave to enable access to paid leave when providing care. However, this reduces their access to annual leave to participate in rest or recreational activities as intended, leaving carers with minimal opportunities to take holidays or recuperate.

Evidence requirements

Currently, carers are required to provide a medical certificate or provide a statutory declaration as evidence of their caring role to access carer leave or flexible working arrangements. Carers have reported that this can be very costly, with GP gap payments continuing to increase.²⁴ Additionally, with many GPs at capacity, especially in rural and regional areas, securing a medical appointment can be challenging. Obtaining medical evidence also relies on the willingness of the person receiving care consenting to medical review or treatment.

While some states and territories have a 'carer card' which may provide evidence of caring, this is not consistent across Australia and no such card exists in NSW. In some circumstances, evidence of receipt of Carer Payment or Carer Allowance may also be accepted by employers as evidence of caring, however, the number of carers in employment receiving Carer Payment only represents a small minority of carers, and those carers may be unwilling or uncomfortable disclosing income supports to their employer due to associated stigma.

²¹ Keesing, S., Rosenwax, L. and McNamara, B. (2011), "'Doubly deprived': a post-death qualitative study of primary carers of people who died in Western Australia", *Health and Social Care in the Community*, 19 (6): 636-644.

²² 'Sick and carer's leave' entitlement is referred to as 'sick and carer leave' within this submission to ensure consistency of language with the current Productivity Commission inquiry into 'Carer leave'.

²³ <https://carersandemployers.org.au/>.

²⁴ Australian Broadcasting Corporation (ABC) (2022) *It's getting hard to find a GP – these doctors explain why*, available online at: <https://www.abc.net.au/news/2022-08-20/doctor-nurse-shortage-medicare-rebate/101352684>, viewed 25 August 2022.

Limitations of legislated entitlements

Flexible working arrangements have become increasingly available due to COVID-19. Carers may access a variety of flexible working arrangements to support them to fulfil their caring responsibilities such as working from home, job sharing, flexible hours and split shifts. Flexible working arrangements alone are not sufficient to fully enable carers to manage care and work, but often play an important role in facilitating this balance.

The NES protects the rights of carers to request flexible working arrangements, however, it does not protect the right of carers to access flexible working arrangements. There is limited data available that provides insights into the approval and refusal of flexible working requests. Additionally, carers report to Carers NSW that where flexible working requests have been denied, they have been too scared to take action available through the Fair Work Commission against their employer as they are dependent on their ongoing income, or because they have felt disempowered and unlikely to win against a big corporate employer.

Discrimination

In addition to entitlements for carers in the NES, carers are included in several discrimination focused Acts: the NSW *Anti-Discrimination Act 1977*, the Commonwealth *Sex Discrimination Act 1994* and the Commonwealth *Disability Discrimination Act 1992*. This legislation protects carers, or those providing care to dependents or associating with people with disability (including carers), against discrimination as a result of their caring role.

When considering the rights carers have in the workplace, particularly the right to be protected against discrimination, it is necessary to recognise that while legislation prescribes that all employees have the right to maintain family responsibilities, carers may not experience the full extent of this protection. This is because caring responsibilities often fall outside the prescribed scope of 'family responsibilities.' For example, many parents may need to engage in flexible work hours to accommodate school drop off or pick up, or have flexible leave arrangements in the event a child or children are sick. Caring responsibilities may, however, extend beyond what is perceived to be typical family or parental responsibilities, with many carers reporting that their caring role requires them to attend appointments during work hours or have earlier or later start or finish times to accommodate or maintain regulatory for the person they care for.

It is also difficult to gauge the extent to which carers are actively discriminated against in relation to recruitment, career progression opportunities and requests for flexible working arrangements. Carers often report that they are afraid to disclose their caring responsibilities in these contexts as they believe it will adversely impact how their managers and colleagues will perceive and treat them. In many cases, though this may be the case, active discrimination may be difficult to establish.

Inequitable access to employment entitlements

While evidence indicates that carers experience significant forms of disadvantage when compared to non-carers, there are also specific 'hidden' carer groups who often face additional barriers to accessing support services, face multiple forms of discrimination, and for whom disadvantage in the workplace may be compounded. Carers NSW believes that even while the introduction of extended unpaid carer leave may provide relief for some carers, greater consideration and research is needed to ensure any carer leave model is sensitive to intersectional issues and is able to respond to the unique and specific needs of diverse carer groups who may already be limited from accessing existing support for carers in the workplace.

Current provisions in the NES in relation to existing entitlements for carers including sick and carer leave and flexible working arrangements require care to be provided to an immediate family or

household member. This can create significant barriers to accessing these entitlements for a number of diverse carer cohorts.

Aboriginal and Torres Strait Islander carers may be limited from accessing NES entitlements where kinship systems are not well understood or recognised by employers, such as in instances where care is being provided to a person considered immediate family through kinship systems, but not through a western cultural frame of reference. Lesbian, gay, bisexual, transgender, queer, intersect and other gender or sexuality diverse (LGBTQI+) carers may also have difficulty accessing these entitlements where same-sex relationships are not recognised or respected as spousal or de facto relationships due to stigma or discrimination. LGBTQI+ carers may also not have their families of choice recognised by employers. Culturally and linguistically diverse (CALD) carers who often provide care to extended family members may also have difficulty accessing these entitlements.

Diverse carer cohorts who often experience compounding disadvantage may also be more vulnerable to stigma and discrimination relating to their caring role in the workplace while being less likely to know their rights in the workplace or to seek redress. They may also have reduced bargaining power on seeking access to entitlements available to carers, resulting in greater difficulty accessing these.

The recently released *Gari Yala (Speak the Truth)* report²⁵ details concerning intersectional impacts of caring on Aboriginal and Torres Strait Islander female carers in the workplace. The report found that Aboriginal and Torres Strait Islander female carers often experience a 'triple jeopardy' effect in the workplace due to the compounding effects of racial and gendered inequality, and disadvantage due to being a carer. As such, it was highlighted that Aboriginal and Torres Strait Islander female carers are a particularly vulnerable group, who are more likely to be in culturally unsafe and unsupported employment. Given the additional vulnerability of female Aboriginal and Torres Strait Islander carers, they may experience greater difficulty accessing existing or future entitlements available to carers in the workplace.

The combination of paid sick and carer leave under one entitlement may also significantly disadvantage working carers who are living with disability or chronic illness themselves. More than one in three (37.4%) primary carers report living with disability themselves, higher than the incidence of disability reported in the broader Australian population.²⁶ While evidence shows that people living with disability are less likely to take sick leave than other people in the workforce,²⁷ carers living with disability may have a greater need to access their paid sick and carers leave to manage their own health and wellbeing, especially to participate in health maintenance activities such as attending appointments, reducing their access to carer leave.

Alternatively, where carers choose to prioritise the needs of the person they care for in the use of their sick and carer leave, they may forgo access to their own health activities. In some cases, this may result in deterioration of their condition that limits their ability to fulfil both their work and caring responsibilities.

²⁵ Evans, O. (2021) *Gari Yala (Speak the Truth): gendered insights, WGEA Commissioned Research Report in partnership with the Jumbunna Institute of Education and Research and Diversity Council Australia*, available online at: <https://www.wgea.gov.au/publications/gari-yala-speak-the-truth-gendered-insights>, viewed 25 August 2022.

²⁶ ABS (2019).

²⁷ Department of Social Services (DSS) (not dated) *An Employer's Guide To Employing Someone With Disability*, available online at: https://www.dss.gov.au/sites/default/files/documents/09_2014/employers_guide_to_employing_someone_with_disability_0.pdf, viewed 25 August 2022.

“Being a carer is tough emotionally and physically. I enjoy my role and understand my role as I have been doing it a long time. I find using all my paid leave for caring limits me taking leave for myself and needing finances for bills and to live. A lot of times you are made to feel guilty for caring for someone and some senior people do not understand the complexities of being a carer even though you provide medical certificates and statutory declarations to advise where you were when away from work. They don't know the number of hours you spend caring after hours.”

- Carers NSW 2022 National Carer Survey (full results not yet published)

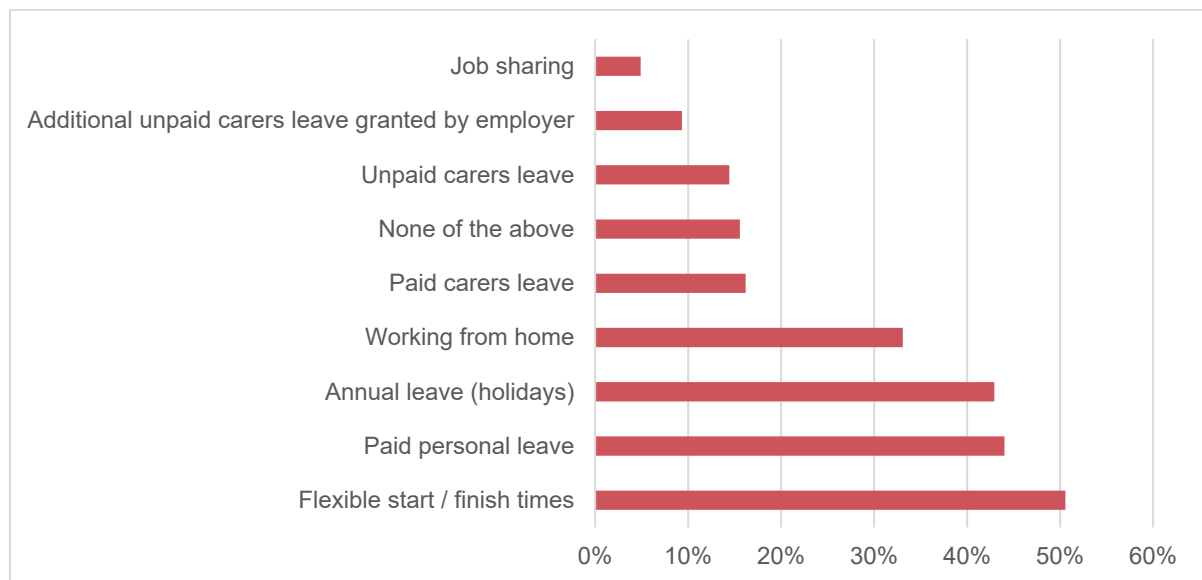
4. Potential effects of unpaid carer leave

Effects for carers

It is difficult to estimate the number of carers who would access an extended period of unpaid carer leave and the extent to which they would benefit, due to the limited data on uptake and effectiveness of existing carer employment entitlements.

The Carers NSW 2020 National Carer Survey²⁸ found that more than half of all working carers had used flexible start/finish times in their current jobs. Relatively few (15.6%) had not used any flexible work arrangements.²⁹ Around one in ten working carers reported using other flexible work arrangements, such as flexible work days. However, uptake of unpaid carers leave and additional unpaid carers leave granted by an employer were relatively low in comparison to other flexible working arrangements, noting that high reporting of working from home may have been associated with the survey being conducted in the height of the first wave of the COVID-19 pandemic.³⁰

Figure 2. Use of flexible work arrangements



N=2,175

Determining whether an extended period of leave would support some carers to remain in employment is also difficult due to limited data. The Carers NSW 2020 National Carer Survey found

²⁸ Carers NSW (2020b).

²⁹ Ibid.

³⁰ Ibid.

that in the context of no entitlement to an extended period of carer leave, 27.5% of carers reported having to quit work in order to care. The Survey also found that combined with having to retire early to continue caring, 44.5% of carers reported having left the workforce due to their caring responsibilities, 27.3% reported reducing their working hours, 14.6% reported working in a job lower than their skill set, 13.1% reported turning down a new job or promotion and 12.4% reported changing industry or occupation. However, while many carers reported experiencing impacts of caring on their career, it is not possible to determine if any would have benefit from access to extended carer leave entitlements.

Whether a carer leaves the workforce depends on a variety of circumstances individual to the caring situation. Besides the intensity of the provided care, studies from Australia and the UK highlight the financial situation of the household, job security and workplace arrangements as the most significant factors for keeping carers engaged in paid employment.³¹

Using data from Waves 2 to 4 of the Household Income and Labour Dynamics Australia (HILDA) survey 2001, it has been estimated that between 3–4% of Australian employees become carers each year.³² However, the COVID-19 pandemic has led to increased support needs, with the Australian Bureau of Statistics indicating that in 2021 26.7% of people provided unpaid care to adult,³³ while in 2022 this has reduced to 20.1%.³⁴

Based on this research and data collected by Carers NSW through the 2020 National Carer Survey, factors influencing whether carers disengage from the workforce include:

- Needs of care recipients/care intensity (a higher care intensity makes labour force exit more likely)
- Financial situation of the household (financial stability allows for an exit from the workforce, financial commitments like having to pay a mortgage make it less likely)
- Job security and career outlook of carer (higher job security and better career prospects – less likelihood of leaving workforce)
- Level of support in the workplace, flexibility of work arrangements
- Availability, affordability and quality of formal care
- Availability, affordability and quality of formal and informal supports for the carer
- Capacity to plan ahead to meet care requirements (steady, ongoing – sudden, intense)
- Structure of the household, living situation and closeness of the carer to care recipient (separate vs common household, other household responsibilities)
- Personal capacity of the carer, mental and physical wellbeing
- Personal preferences of care recipients
- Personal preferences of carer, influenced by social expectations, gender norms (preference to care – preference to work)

³¹ Arksey, H., Kemp, P., Glendinning, C., Kotchetkovic, I., & Tozer, R. (2005) *Carers aspirations and decisions around work and care* (Department of Work and Pensions Research Report No. 290). York: University of York; Bittman, M., Hill, T. & Thomson, C. (2007) The Impact of Caring on Informal Carers' Employment, Income and Earnings: a Longitudinal Approach. *Australian Journal of Social Issues*, 42(2), 255–272. doi:10.1002/j.1839-4655.2007.tb00053.x; Hill, T., Thomson, C., Bittmann, M. & Griffiths, M. (2008) What kinds of jobs help carers combine care and employment? *Family Matters*, 80, 27–32, and Moussa, M. (2019). The relationship between elder care-giving and labour force participation in the context of policies addressing population ageing: A review of empirical studies published between 2006 and 2016. *Ageing and Society*, 39(6), 1281-1310. doi:10.1017/S0144686X18000053

³² Hill, T., Thomson, C., Bittmann, M. & Griffiths, M. (2008) What kinds of jobs help carers combine care and employment? *Family Matters*, 80, 27–32.

³³ Australian Bureau of Statistics (2021) *Household Impacts of COVID-19 Survey, May 2021*, available online at: <https://www.abs.gov.au/statistics/people/people-and-communities/household-impacts-covid-19-survey/may-2021#key-statistics>, viewed 25 August 2022.

³⁴ Australian Bureau of Statistics (2022) *Household Impacts of COVID-19 Survey, March 2021*, available online at: <https://www.abs.gov.au/statistics/people/people-and-communities/household-impacts-covid-19-survey/mar-2022#unpaid-activities>, viewed 25 August 2022.

These factors are not independent, but interact with and reinforce each other. Their relative importance is also highly dependent on the situation in which the caring role arises. A central factor is the level of engagement of the carer in paid work prior to commencing the caring role. This is again highly influenced by gender dynamics in the household and in the workplace.

"I have had to quit previous positions [due] to my caring role and not having the flexibility at work however in my current role I now have the flexibility to accommodate my caring role. However I don't have enough paid leave to adequately support my caring role and have considered quitting because I'm often exhausted due being a carer and all the extra responsibilities being a carer requires."

- Carers NSW 2022 National Carer Survey (full results not yet published)

It is important to note while some carers may benefit from the proposed extended carer leave entitlement, this type of entitlement may be unsuitable or inaccessible for a number of carers, including those:

- in casual employment who are currently unable to access existing paid sick and carer leave entitlements across most of Australia
- with episodic or fluctuating caring roles which require greater flexibility in leave options that can be adapted to changes in the intensity and frequency of care required
- who are already experiencing financial disadvantage and could not afford to take an extended period of unpaid leave.

Carers NSW believes that in order to understand the effectiveness of an entitlement to extended unpaid carer leave the Productivity Commission must engage with carers in regards to their interest and likelihood of utilising such a measure to ensure that it aligns with carer experiences and best meets their needs.

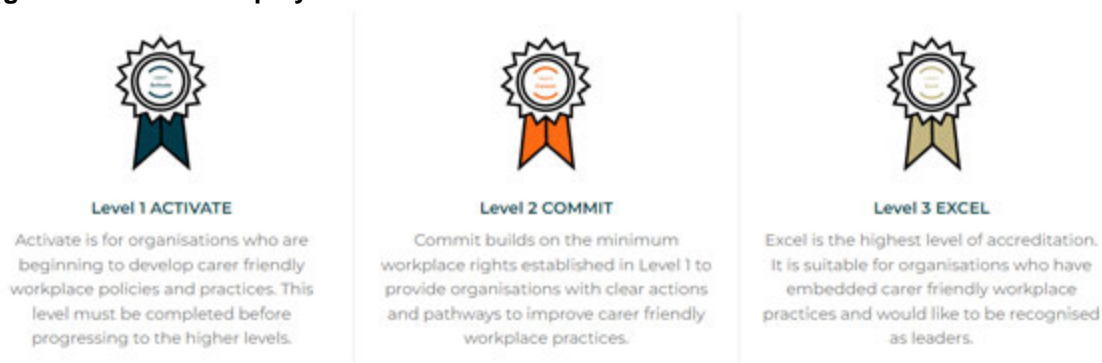
Effects for employers

Carers NSW consulted with four accredited employers from our Carers + Employers (C+E) network,³⁵ in regards to the proposed changes to the NES, as well as existing carer employment entitlements and supports. Carers + Employers is a workplace accreditation program that defines best-practice standards for supporting employees with caring responsibilities. Organisations can be accredited through the program at 3 levels, Activate, Commit and Excel (see Figure 3).

All employers consulted reported offering carer leave in excess of the minimum outlined in the National Employment Standard, with most reporting offering uncapped unpaid carer leave. However, a majority reported being unable to track uptake as this was recorded under 'personal leave' or 'unpaid leave', and as such, they were unable to comment on current uptake as it is unable to be separated out from sick or other leave.

³⁵ <https://carersandemployers.org.au/>

Figure 3. Carers + Employers levels of accreditation



The employers interviewed also reported offering a range of other workplace supports for carers including:

- Wellbeing days
- Working from home policy to support staff in caring roles
- Additional days of personal leave
- Flexible working arrangements including job share
- Career break options
- Dedicated online hub or network for employed carers

One employer reported concerns that instead of supporting carers to better balance work and care, an extended block period of unpaid leave would likely be counterproductive, as it likely would not adequately address a carer's needs in relation to work or care. Employers reported that from their understanding, many employers already offer unpaid leave options to staff to provide care, beyond that available through the NES, and that instead, greater focus should be on:

- increasing carer awareness of employers, especially line managers, to enable greater access to available flexible working arrangements and appropriate carer-focused supports
- supporting people to maintain a healthy balance between work and caring responsibilities, as opposed to encouraging periods of extended leave due to the positive outcomes of work (e.g. confidence, social contact, mental health)
- increasing and improving paid leave options with financial input from governments, to enable greater equality for carers

Data from the Workplace Gender Equality Agency (WGEA)³⁶ suggest that in line with feedback from C+E accredited employers, many employers more broadly are taking steps to support carers within the workplace with 67.1% of employers with reporting requirements indicating that they have a formal policy or strategy to support employees with family and carer responsibilities and 56.8% of employers reporting non-leave support for employees with family and caring responsibilities.

5. Design considerations

Carers NSW believes that, while an extended period of unpaid carer leave may not suit all carers, some would benefit. Carers NSW therefore proposes that extended unpaid leave be one of several options available to carers, with different features and eligibility thresholds designed to accommodate the diversity of caring roles and experiences. We propose the following model:

³⁶ Workplace Gender Equality Agency (WGEA) (2022) *WGEA data explorer*, available online at: <https://data.wgea.gov.au/>.

- **Short-term carer leave**

An expanded version of the existing paid and unpaid NES entitlements that:

- includes casual employees,
- is separated from, and additional to, sick leave, and
- uses a broader definition of 'carer' in line with the *Carer Recognition Act 2010* (Cth)

Carers NSW anticipates that this form of leave would better accommodate the needs of carers who require occasional days off work to attend to episodic, sudden or transitional caring needs. It would also support carers to support with routine care tasks as needed that support the person they care for to remain in the community, such as assisting with attending medical appointments.

Provision of a medical certificate or statutory declaration as proof of caring should be adequate, however consideration of ways of streamlining or minimising evidence requirements for carers who regularly access this type of leave should be considered.

- **Medium-term carer leave**

A defined period of government-funded leave booked in advance to address more intensive, short to medium term caring responsibilities, such as transitioning someone into aged care, providing additional support post-hospital discharge or putting in place new treatment or care arrangements for a recent diagnosis.

This entitlement may also be suitable for providing an intense period of end of life care. However, this would likely need to consider additional provisions for bereavement leave.

This could be modelled on the 18 week paid parental leave scheme³⁷ and have a narrower eligibility criteria than the short-term carer leave option which takes into consideration care intensity and the availability of informal/formal supports.

Medical evidence that confirms the need for a designated period of leave to enable the provision of intense care may be required to support access to this type of leave

- **Longer-term carer leave**

Up to two years of unpaid leave as suggested in the issues paper, which could be implemented in a similar way to NES parental leave entitlements. It would be critical that this include financial support, either through:

- eligibility to access the medium-term paid leave concurrently, as with parental leave
- eligibility for Carer Payment to receive ongoing income throughout the period
- eligibility for another temporary Centrelink payment, similar to how pandemic and natural disaster payments have been administered

Depending on the model, eligibility criteria may need to approximate Centrelink eligibility criteria for Carer Payment or Carer Allowance,³⁸ but should not be restricted to carers of older Australians or exclude carers providing care to someone in residential aged care. Additionally, consideration should be given to existing barriers to Carer Payment and Carer Allowance eligibility to ensure it is nuanced enough to include a wide variety of diverse carers.

³⁷ <https://www.servicesaustralia.gov.au/about-paid-parental-leave-scheme?context=23121>.

³⁸ <https://www.servicesaustralia.gov.au/who-can-get-carer-payment?context=21816>;
<https://www.servicesaustralia.gov.au/who-can-get-carer-allowance?context=21811>.

It would also be advisable that superannuation contributions continue throughout this period of unpaid leave, regardless of the financial support in place, so as not to disadvantage the carer, especially female carers, who already face deficits in retirement income from career interruptions.

Carers NSW advocates that given the broader financial impacts of caring, access to financial support during any period of carer leave is an essential element of carer employment entitlements.

Furthermore, it is important that any additional carer employment entitlements, such as access to an extended period of carer leave, have inbuilt provisions that enable flexibility in the use of such leave.

Carers NSW believes that the proposed stepped model is in line with current government practice with respect to both leave entitlements and financial support. Design elements are drawn from the following existing entitlements:

- **Paid and unpaid carer leave**

The NES currently provides access to 10 days of paid sick and carer leave for full- and part-time employees, and 2 days of unpaid carer leave. Many carers report utilising these entitlements to support their caring role. The flexibility of existing sick and carer leave to be taken on non-consecutive days or for part-days enables use that aligns with carer needs. However, existing provisions exclude access for casual employees, use a restrictive definition of carers and caring, limit carers access to sick days in their own right and often are not adequate to enable carers to fulfil their caring role.

- **Community service leave**

Community service leave³⁹ provides another example of prolonged leave entitlements, with community service leave uncapped while an employee is participating in voluntary emergency management. Uncapped unpaid carer leave would enable carers to access leave to provide care as needed, increasing flexibility of these arrangements, which is likely to be of most use to those with long term, episodic or fluctuating caring roles. A number of employers accredited through the Carers NSW Carers + Employers program report that they already provide uncapped unpaid carer leave. However, Carers NSW understands that uncapped leave entitlements may create challenges for employers with business and staff planning, especially within smaller organisations.

- **Parental leave**

The Paid Parental Leave scheme⁴⁰ provides a model for medium-term paid leave options that could be applied to carers, creating an entitlement to a set number of weeks/days of paid leave within a set period of time. Government financial contributions that support the paid parental leave scheme enable the viability and sustainability of this initiative and limit the impact on employers. Financial commitment from governments would likely be a key element of a success paid carer leave scheme.

Providing access to a period or larger amount of paid carer leave is likely to see increased uptake, especially among male carers, as carers would have greater financial security on reducing or suspending work to provide care. While some carers may choose to take this as a block, ensuring flexibility is likely to result in the greatest level of effectiveness, especially for carers providing episodic or fluctuating levels of care. Furthermore, built-in incentives to share care, which currently exist within the Paid Parental Leave scheme are likely to see greater gender equality in taking on caring roles and enable distribution of negative impacts of caring among family members or friends, as opposed to all on one person.

³⁹ <https://www.fairwork.gov.au/leave/community-service-leave>.

⁴⁰ <https://www.servicesaustralia.gov.au/about-paid-parental-leave-scheme?context=23121>.

Unpaid parental leave entitlements⁴¹ also provide a potential model for approaching longer-term leave options to provide care. Unpaid parental leave provisions protect the rights of new parents to access up to 12 months of unpaid leave, with the option to negotiate a further 12 months of leave with their employer (24 months of leave total). Carers who require or would like to access a prolonged period of leave to provide care may benefit from such options, especially if there are opportunities to remain connected to the workplace throughout this period of leave.

Parental leave options, both paid and unpaid, provide a range of flexibility provisions, such as those for premature birth and miscarriage or stillbirth. These types of flexibility provisions enable the leave entitlements to be sensitive and adapted to a range of complex and nuanced circumstances. Availability of such flexibility provisions that are sensitive to the complexities of caring, such as changes in caring circumstances or passing of the care recipient would likely be key to adapting such a model for carers.

However, tenure requirements for access to paid and unpaid parental leave entitlements may not be suitable for carers, who may suddenly or unexpectedly fall into a caring role. Unlike parental care responsibilities, caring responsibilities are unpredictable in nature and provisions must enable access for those who have sudden or unforeseen caring responsibilities.

- **Family and domestic violence leave**

The recently introduced *Fair Work Amendment (Paid Family and Domestic Violence Leave) Bill 2022*⁴² (the Bill) aims to enhance existing NES leave entitlements for employees experiencing family and domestic violence by creating an entitlement to 10 days of paid family and domestic violence (FDV) leave in a 12-month period for full-time, part-time and casual employees. It also aims to ensure that this leave is paid at the same rate as their regular income and not at 'base rates', as opposed to other paid leave entitlements such as paid parental leave. The Bill has been passed in the House of Representatives and is currently with the Senate for consideration.

While the NES already creates entitlements to paid sick and carer leave for full- and part-time employees, casual employees are excluded from this entitlement. The proposed extension of FDV leave entitlements to casual employees suggests that this would be in scope in relation to other forms of leave, such as carer leave. Furthermore, payment of carer leave at the regular rate of income is also likely to improve uptake given the precarious financial position of many carers.

- **Pandemic leave**

COVID-19 has highlighted the significant impacts of the inability to access paid sick or carer leave on casual employees, with the Australian Government implementing the Pandemic Leave Disaster Payment (the Payment)⁴³ to ensure that casually employed persons caring for someone with COVID-19 could access paid carer leave. The Government-administered payment enables people who would otherwise have no access to sick or carer leave to access financial support where they required leave as they were sick with, or caring for someone sick with COVID-19. Instead of prescribed days of leave, a standardised payment is provided to anyone who is eligible for this support. These payments are funded by the Australian Government in partnership with state and territory governments, reducing strain on employers to meet associated costs.

A positive feature of Pandemic Leave Disaster Payment is that it has no period of employment requirements and is based only on if a person has lost at least 8 hours or a full day's work, such

⁴¹ <https://www.fairwork.gov.au/tools-and-resources/fact-sheets/minimum-workplace-entitlements/parental-leave-and-related-entitlements>.

⁴² https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6882_ems_805554bf-e778-4e8b-9820-9c463ff038bf/upload_pdf/JC007042.pdf;fileType=application%2Fpdf.

⁴³ <https://www.servicessaustralia.gov.au/pandemic-leave-disaster-payment>.

provisions may ensure access to carers in less secure employment. However, means testing on liquid assets which currently apply to this payment may be prohibitive and may exclude some carers who would be likely to benefit. Furthermore, the payment is still not equivalent to regular income and as such, carers accessing this type of support may still be financially disadvantaged in comparison to full- or part-time employers.

- **The Victorian Sick Pay Guarantee**

The Victorian Government is currently trialling the Victorian Sick Pay Guarantee (the Guarantee)⁴⁴, which provides sick and carer pay for casuals and contract workers who do not have access to paid sick or carer leave entitlements through other mechanisms. While the Victorian Government is currently meeting the costs of this trial, it has been proposed that long-term implementation will involve a levy on employers to ensure sustainability.

Implementing such a model more broadly would ensure that carers in casual and contract work are not disadvantaged or discriminated against through leave policies. However, employers may be unwilling or resistant to paying a levy to fund this type of support. Additionally, the Guarantee continues to combine sick and carer leave provisions, limiting carers' access to sick leave where they have utilised this entitlement to fulfil their caring responsibilities. The payment is also currently restricted to identified industries, which may limit or exclude access for some carers in casual or contract employment outside of these industries.

6. Complementary and alternate supports

Carer employment entitlements are a key element of supporting carers to balance work and care. However, Carers NSW believes that the effectiveness of these supports is dependent on a strong foundation of carer-friendly workplaces, in which carer-friendly policy is embedded and carers are recognised and valued for their caring role. Furthermore, evaluating and improving existing carer employment entitlements is likely to create greater access, uptake and effectiveness will contribute to improved outcomes for carers, the people they care for, employers, governments and the community at large.

While a flexible, carer-friendly workplace is key to providing good working conditions to carers, carers, like other workers, should have access to work that is adequately paid, enjoyable and in line with their skills and experience, undertaken in a supportive workplace culture. At this point it is important to highlight carers' choice, both in whether to remain in paid employment, and to what capacity while providing care. Ensuring that this choice is respected and promoted throughout any future reforms will also contribute to its success.

Carer-friendly workplaces

Greater awareness and inclusion of carers by employers is required in order to implement the kind of flexibility and support that will enable the many employees with caring responsibilities to maintain both roles effectively. Increased carer recognition and awareness is likely to improve carer identification, broaden awareness of carer employment entitlements, increase uptake of these entitlements and reduce discrimination towards carers within the workplace.

⁴⁴ <https://www.vic.gov.au/sick-pay-guarantee>

Some industries and roles are more amenable to flexibility than others (hence the higher concentration of carers within certain industries),⁴⁵ and specific types of employers (such as large corporates and government agencies) are more likely to invest proactively and innovatively in flexibility and inclusion due to existing incentives and regulation.

Supportive workplaces where carers are encouraged to self-identify in order to access available entitlements and supports to balance employment with their caring role are likely to result in the best outcomes for both carers and employers. Improving carer-inclusivity of workplaces is underpinned by raising awareness and understanding of carers and strengthening carer recognition legislation. This may include:

- strengthening the *Carer Recognition Act 2010* to increase accountability and enforceability
- extending provisions within the *Carer Recognition Act 2010* that apply to public service agencies to all employers.
- centralising carer policy and programs to enable oversight and evaluation of the effectiveness of policy in programs in delivering well-rounded support for carers
- developing a National Carer Strategy to drive a whole of government approach to improving carer economic participation
- investing in carer awareness programs for employers / to improve their understanding of caring and confidence in supporting carers in employment.

Initiatives such as the Carers + Employers program⁴⁶ support employers of all sizes and sectors to improve their support, retention and recruitment of carers in line with a strong business case. Further, an increasing focus on both workplace diversity and flexibility, in relation to a range of employee cohorts, holds broader benefits for working carers. Proponents of 'flexibility by design' suggest that it prevents the need to accommodate individual scenarios and instead recognises that all employees are likely to have some form of caring commitment outside of work at some stage.⁴⁷

Initiatives such as annual mandatory WGEA reporting⁴⁸ provide opportunities to ensure that employers are developing, implementing and monitoring carer-friendly policy in the workplace. However, currently WGEA reporting requirements do not require employers to identify the number of carers in their workplace within diversity characteristics. Additionally, questions relating to flexible working provisions for carers also include policies available to parents who provide care to a dependent child, making it difficult to understand uptake and usage of carer-focused policies.

Improved data collection and reporting by employers and correct use of the term 'carer' in mandatory reporting requirements will likely enable a better understanding of the numbers of carers within workplaces. It will also provide vital insights into the availability and uptake of workplace policies that is not primarily focused on parents but may also benefit carers, and the uptake of such provisions or entitlements.

⁴⁵ Carers NSW (2020a); Skinner, N., Pocock, B. (2014), *The Persistent Challenge: Living, Working and Caring in Australia in 2014. The Australian Work and Life Index 2014*. Centre for Work and Life, University of South Australia: Adelaide, p. 38.

⁴⁶ <https://carersandemployers.org.au/>.

⁴⁷ Russell, G., O'Leary, J., Tilly, J., Brown, C. (2016), *Future-Flex: Mainstreaming Flexibility by Design: Redesigning work to make flexibility standard business practice in Australian retail workplaces*, Synopsis Report, Diversity Council Australia, available online at: <https://www.dca.org.au/files/file/Research/DCA%20Future%20Flex%20Synopsis%20Online%20Accessible.pdf>; viewed 17 October 2016.

⁴⁸ WGEA (2022) *Reporting*, available online at: <https://www.wgea.gov.au/what-we-do/reporting>, viewed 26 August 2022.

Access to formal supports

In addition to flexible work and leave policies that support carers to balance work and care, it is vital that employers link carers to supports both internal and external to the organisation as soon as they are identified or self-identify in the workplace. The direct impacts on a carer's availability to participate in employment are discussed throughout this submission, however, caring can also impact on a carer's health and wellbeing, social connectedness and broader financial security which can all contribute to an overall reduction in a carer's ability to participate in employment.

Access to timely, adequate and appropriate formal care services, including services and supports that provide replacement care while a carer is participating in employment, is a key component of supporting carers to maintain employment and continue caring. The Australian Work + Policy Roundtable highlighted in their *Federal Election Benchmarks 2022*⁴⁹ the need for robust aged and disability care service systems in supporting many Australians to effectively participate in employment. Ongoing workforce shortages, thin markets and rationing of care service funding have resulted in significant delays or inability to access formal supports that provide reliable formal services, including respite and replacement care. Furthermore, complex service systems and poor integration often limit access to available supports in the community, especially for diverse carer cohorts who often face additional barriers to accessing support.

"It was crippling managing both but I couldn't not work (financially, though I imagine even if I had money I would have tried to keep working because it matters to me). There was no home support available. By the time I got "respite" care I was so exhausted and ill."

- Carers NSW 2022 National Carer Survey (full results not yet published)

Linking carers to support may include referrals to Employee Assistance Programs for counselling or support navigating workplace conversation or negotiations. Some organisations have developed or invested in carer-focused supports within their organisations. These include 'carer hubs' or 'carer networks' which enable carers within the organisation to link in with other employed carers for peer support or products such as Mercers Care & Living with Mercer (CaLM) program⁵⁰ which supports employees to navigate the complexities of the aged care system, including planning, implementing and monitoring aged care arrangements.

Carers should also be linked in with carer-focused supports in the community, including Carer Gateway⁵¹. Carers can access a range of supports through Carer Gateway including counselling, coaching, peer support groups, emergency and planned respite care, home help and funding for equipment. Carer Gateway aims to improve the health and wellbeing of carers which is likely to support them to better sustain both their work and caring activities.

Carers may also be able to access financial support associated with their caring role, such as the Carer Payment or Carer Allowance, that may supplement their income, especially where they have reduced hours of employment to care and assist them to meet increased costs associated with their caring role. However, it should be noted that there are caps on income and hours of work to access such payments.

⁴⁹ Work + Family Policy Roundtable (2022) *Work, Care and Family Policies: Federal Election Benchmarks 2022*, available at: https://www.workandfamilypolicyroundtable.org/wp-content/uploads/2022/04/WorkFamilyBenchmarks2022_online_s-1.pdf, viewed 26 August 2022.

⁵⁰ <https://www.mercer.com.au/what-we-do/workforce-rewards-and-talent/care-and-living-with-mercer.html>.

⁵¹ www.carergateway.gov.au.

7. Conclusion

Throughout this submission Carers NSW has repeatedly emphasised the importance of understanding the uptake, effectiveness and limitations of existing carer employment entitlements and supplementary supports that assist carers to balance work and care. This will create better understanding of the unmet needs carers are currently experiencing and the consideration of a range of improvements to carer employment policy and programs.

Furthermore, Carers NSW has also highlighted the importance of conducting greater user testing with carers to ensure that any further carer employment entitlements are fit for purpose and would be appropriate and adequate for a diverse range of carers.

In the next stages of the inquiry Carers NSW recommends that the Productivity Commission:

- Conduct further exploration to better understand the complex, nuanced factors that contribute to carers leaving employment
- Develop understanding of interest, uptake and limitations of existing carer employment measures
- Conduct user testing of different models with a large variety of carers, including extended unpaid carer leave
- Ensure consideration of all carers in the design and development of carer leave entitlements

Carers NSW also wishes to re-state the key principles shaping this submission

- Existing carer leave entitlements should be expanded to benefit more carers
- New carer leave entitlements must include eligibility to access financial support
- Access to new carer leave entitlements should not be restricted based on the age of the person receiving care
- Carer leave entitlements must be flexible, equitable, enforceable and widely promoted
- Carer leave entitlements must be complemented by stronger entitlements regarding access to flexible working arrangements, and improved provision of formal care services

We look forward to reviewing and responding in detail to the draft report in early 2023, and sharing additional data analysis from the 2022 National Carer Survey once available from October 2022.