



Equality and Human Rights Impact Assessment (EHRIA)

Remember! When completing the Equality and Human Rights Impact Assessment ‘policy/practice’ must be interpreted in the widest possible sense to include the full range of SPS policies, provisions, criteria, functions, procedures, practices and activities for employment and service delivery. Please refer to the EHRIA Guidance document when completing the EHRIA.

Stage 1: Background information

To be completed by the person leading the EHRIA	
Title of Policy or Practice:	Carer’s Leave
Lead Author/Reviewer:	Sharleen MacFarlane
Date EHRIA Commenced:	March 2024
Date EHRIA Completed:	01/04/24
Date New/revised policy/practice signed off by Management:	02/04/24
Date EHRIA actions due for review on:	The policy will be reviewed as and when required to reflect changing business and legislative requirements.

Is the policy/practice:	
A new policy/practice	<input checked="" type="checkbox"/>
A revised policy/practice	<input type="checkbox"/>

Are there any other SPS policies that will be altered by the proposed changes?

Please provide details of the policies and changes required. Any policy subject to change due to the introduction/review of this policy should have an EHRIA review undertaken to ensure there are no detrimental impacts on protected characteristics, human rights or socio-economic impact.

Policy Name: Special Leave Policy

Changes identified: The Carer's Leave policy will sit as an annex within the Special Leave Policy, therefore, minor amendment to wording will be required to include this new annex and to distinguish between dependent leave (emergency) and planned carer's leave.

Who is the policy/practice lead?

Please note: the policy lead is responsible for ensuring both the full EHRIA and the Publication version are completed, and any reviews undertaken. They are also responsible for ensuring EHRIA's for other policies impacted during this process are completed.

Name Sharleen MacFarlane

Role Employment Relations & Reward Manager

Business Area HR Central Services

Who else is involved in the EHRIA?

Those involved must have a detailed understanding of the policy/practice area and must be in a position to ensure that changes can be made to a developing policy/practice where they are required. It is advisable to seek the support of an Equality & Diversity Manager or practitioner for expert input. The Trade Union Side should be involved in support of the SPS Partnership agreement. Add additional boxes as necessary.

Name Kate Skibtschak

Role Head of Equality Diversity and Inclusion

Business Area HR Central Services

Name Phil Thomas

Role TUS Secretary

Business Area TUS

Name

Role

Business Area

Stage 2: Scoping and evidence gathering.

Scoping
<p>Why are you introducing the new policy/practice, or why are you revising an existing policy/practice?</p> <p>The Carer’s Leave Regulations 2024 (legislation.gov.uk) come into effect on 6 April 2024 and will give all carers a statutory right to unpaid time of the purposes of caring responsibilities. By implementing a Carer’s Leave Policy, SPS can apply to become recognised as a Carer Positive Employer, which recognises best practice and helps demonstrate SPS’ commitment to Fair Work First.</p> <p>Juggling work and caring responsibilities can be challenging and extremely stressful, with many carers unable to sustain their careers. Without support and understanding at work, carers can suffer from high levels of stress and exhaustion. The effects of this can be damaging both in the workplace and at home.</p> <p>Informal carers are individuals who look after close family, friends or neighbours with long-term physical or mental health issues, or problems related to old age, where the care is unpaid. Informal care encompasses a range of different activities, which vary from providing emotional support to everyday activities such as helping with the shopping and providing medication. Furthermore, such care is usually not provided as part of a paid job. As the UK population ages with people living longer and with more complex care needs, it is expected that the provision of unpaid care will increase over time. The Family Resource Survey (FRS) 2020/21 found that there were approximately 4.2 million people providing unpaid care in the United Kingdom.</p> <p>Whilst carers provide a vital support function in caring for individuals close to them, there is a wide body of evidence showing the negative impact of caring upon employment, as carers face difficulties in combining paid work with caring responsibilities. Informal carers are less likely to be in employment compared to all adults or non-carers and this is especially true for full-time employment. The FRS 2020/21 shows that 53% of all adult informal carers were in employment, compared to 59% of all adults.</p> <p>Adult Informal carers are also less likely to be in full-time employment (47%) compared to all adults (52%). Previous research by the OECD Home page - OECD on the impact of caring across 35 countries found that caregiving resulted in reducing working hours in most countries. For the UK, the report found that care intensity, across all types of care (10 hours, 10-19 or 20 or more hours per week), was linked with a reduction in hours worked, albeit less so for carers providing fewer than 10 hours of care a week. One longitudinal study of the employment status of carers in England found that those who started caring for at least 10 hours per week in their fifties were significantly less likely to be in employment two years later compared to noncarers.</p>
<p>What is the intended outcome(s) and impact of the new policy/practice, or making the changes to an existing policy/practice?</p> <ul style="list-style-type: none">• Compliance with Employment Law.• Provide increased flexibility and better support to those with caring responsibilities by allowing employees to take additional time off to carry out their responsibilities.

- Champion equitable access to care for all genders, e.g. promote to both men and women to challenge the stigma around male caregivers.
- Consider caring the norm, not the exception.
- Respond to the increasing demand for a more flexible approach to working.

Affected carers will benefit from having more time to do the things they value the most. This could lead to improved health and social outcomes, such as feeling less stressed and more time to engage in leisure activities. Employers will benefit from having a more committed and engaged workforce alongside reputational benefits from providing an entitlement to leave. In addition, further benefits will flow from employee retention and employers will benefit from lower recruitment and training costs. The wider economy may also profit from higher tax receipts from employee carers remaining in the labour market for longer. Finally, people receiving care are likely to benefit, as carers are able to continue providing informal care (which they prefer) and a provide a higher quality of care, as carers are likely be less stressed and fatigued.

Evidence Gathering

Who did you consult with?
(Have you consulted/involved equality groups or other groups who will be affected by the new/revised policy/practice? The Trade Union Side should be always consulted in support of the SPS Partnership agreement. The PGA (Prison Governor’s Association) should be consulted as well. It may also be useful to consult with staff via support networks or with people in custody via focus groups.

- SPS Employment Relations & Reward Team,
- TUS,
- PGA,
- Operations Directorate,
- HR Business Partners,
- Head of Equality, Diversity and Inclusion,
- Pay & Pensions Team & Digital Transformation

What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you considered when deciding to develop new or revise current policy/practice? How did it shape your policy/practice?
(This could be in-house or external information such as monitoring data; research; surveys; reports; previous impact assessments; complaints; demographics or best practice relating to equality groups.)

- [The Carer’s Leave Regulations 2024 \(legislation.gov.uk\)](#) were referenced when developing the SPS carer’s leave policy to ensure compliance.
- We have reviewed available statistics within SPS including self-declaration of caring responsibilities, the uptake of special leave taken to support a dependent; and the SPS Survey 2023 results in relation to caring responsibilities. This helped identify the potential number of carers within SPS, the issues they may be facing and support they require.

- We have reviewed carer's leave policies from several organisations within the public, private and third Sectors for benchmarking purposes. However, given the legislation is not yet live, these policies may not be up-to-date to reflect the new legislation.
- We have had input from various stakeholders across the SPS to seek views on the policy principles and application.
- We have reviewed HR and carer's websites for best practice guidance, including: [Supporting working carers: how employers and employees can benefit | CIPD](#); [Carer's leave: Six things HR needs to know | Commentary and insights | Tools | XpertHR.co.uk](#) [Carer's leave consultation - Acas response | Acas Scotland | Carers Scotland \(carersuk.org\)](#)
- Reports and statistics on unpaid carers were reviewed to identify the potential impact on protected characteristics including: [Who Cares? - Business in the Community \(bitc.org.uk\)](#) [Carers Census, Scotland, 2022-23 - gov.scot \(www.gov.scot\)](#) [State of Caring 2023: A health and social care crisis for carers in Scotland | Carers UK](#)
- No case law specific to this legislation is available as the legislation is new. However, other case law related to discrimination against carers was reviewed such as [Mrs J Follows v Nationwide Building Society: 2201937/2018 - GOV.UK \(www.gov.uk\)](#)

What did you learn from your evidence-gathering exercises?

It is not possible to confirm the number of carers within SPS as this data relies on self-declaration. However, within the 2022 employee survey 19% of respondents stated they had caring responsibilities. It should be noted however, that this figure may also include parents who are not classed as carers for the purposes of the new legislation (unless the child has a long-term care need related to an injury or disability).

The SPS Survey 2023 reports that only 45% of respondents with caring responsibilities feel supported by their manager to balance their work and caring; and 48% don't know where to access support or information within the SPS. A small number of respondents stated they had experienced discrimination in relation to being a carer and had been refused time off in the past for caring responsibilities.

The impact of caring on individuals can have a detrimental effect on their health and wellbeing. The [State of Caring 2023](#) (Scotland) report reveals that 54% of unpaid carers reported their physical health suffering as a result of their caring role. 28% of carers allowance said their mental health was bad or very bad.

There is evidence to support the linkages between mental health problems and the impact on personal wellbeing. There have been attempts to estimate the total cost of mental ill-health across the UK which some have estimated to be over £100 billion. These costs fall into three different groups: direct spending on health care, spending on social security programmes, costs from lower labour market attachment and personal costs attributed to a lower quality of life. In giving carers the time and space to provide care, the stress and uncertainty arising from caregiving could be mitigated. This could ultimately improve the physical and mental health of carers.

Unpaid carers provide vital support to individuals close to them in need of care, and absence of their help would impose a large burden on the social care system. ONS analysis found that unpaid carers provide social care equivalent to £57 billion to the economy. Whilst many carers

combine their caring and work commitments, it can be difficult to manage these at the same time and this is often at the detriment to the carer’s health wellbeing and employment outcomes. Within an ageing society, we can further expect more people to provide care to a family member or dependent for a longer period. Evidence predicts that by 2050 globally three times more people of working age will be looking after two billion ageing family members – and the majority will have to combine that care with paid work. Specifically in the UK, over the next 50 years the dependency ratio is expected to fall from 4 to 1 to 2 to 124. Given the adverse impacts upon unpaid carers, it is likely that these problems will become more acute as the population ages, potentially causing more people to leave employment and increasing the burden of care on a shrinking workforce.

The policy is likely to impact on several of the nine protected characteristics protected under the Equality Act 2010. [Who Cares? - Business in the Community \(bitc.org.uk\)](#) research indicates women account for 65% of sole carers for older adults and one in five women have left a job because of difficulties balancing work with caring responsibilities.

There is also evidence from the Family Resource Survey (FRS) of gender inequality in the provision of unpaid care with existing survey data showing that women aged 45-64 years are most likely to be carers and more likely than men to provide informal care across all age groups, except for those aged 85 and older. Previous research has shown that women in their fifties are more likely to leave the labour market to provide unpaid care for family members than men. In the context of the gender pay gap, the fact that women are more likely to provide care means that they are more likely to face adverse employment effects associated with caring i.e., lower earnings and leaving the labour market. The evidence above also shows the high likelihood of women leaving the workforce as they approach retirement; maintaining workforce attachment would allow carers and women to contribute more to their pension.

Workers from black, Asian, mixed race or other ethnically diverse groups are disproportionately affected. It is important to assess how the policy impacts different ethnic groups. This shows that ethnic groups make up a larger share of carers relative to their overall employee share. This suggests that the policy will benefit ethnic minority groups.

Ethnicity	Carers	All employees
White	75.5%	86.7%
Mixed/Multiple ethnic groups	0.7%	1.4%
Asian/Asian British	9.8%	6.4%
Black/African/Caribbean/Black British	4.3%	3.4%
Chinese	0.1%	0.5%
Arab	0.5%	0.3%
Other ethnic groups.	1.7%	1.3%
Total	100%	100%

Source: BEIS internal analysis, Labour Force Survey, Jan-Mar 2019

One in two who have caring responsibilities say they have been unable to pursue certain jobs or promotions, while a third have left or considered leaving a job due to lack of flexibility. By comparison, one in five (21%) white people have done the same.

By providing support, employers can help those with caring responsibilities to remain and thrive in the workplace. [Help & Info - Employers Support for Carers | Carers Trust](#)

Workforce Data (April 2023)

- AGE: 4.84% (16y-24y), 26.22% (25y-34y), 21.42% (35y-44y), 21.5% (45y-54y), 23.8% (55y-64y) and 2.21% (65y+).
- GENDER: 36.48% (female) and 63.52% (male).
- ETHNICITY: 34.3% (white), 7% (undisclosed), 58.2% (no response). The numbers of employees reporting their ethnic status as BAME has remained constant at less than 1% of the workforce population.
- DISABILITY: 8.2% of SPS employees declared on e-HR that they have a disability.
- GENDER IDENTITY: The SPS does not currently collect data in relation to gender identity of staff.
- RELIGION: Approximately 20% of employees have disclosed a religion or belief and 10% have chosen not to disclose their religion or belief. Over 60% of employees have not provided any information. Approximately 10% have advised they have no religion or belief.
- SEXUAL ORIENTATION: 65% of our employees have not provided any information on sexual orientation. Of those whose sexual orientation has been recorded, the majority are heterosexual/straight, with less than 2% recorded as gay, lesbian, bisexual or other.
- MATERNITY: In 2023, there were 101 maternity cases.
- MARITAL STATUS: Over 60% of our employees have not provided any information on marital status. Of those who have provided information approximately 23% have declared they are Married/Civil Partnership.
- SOCIOECONOMIC: The SPS does not currently collect data in relation to staff who identify as experiencing, or having experienced, socioeconomic disadvantage.

How will this shape your policy/practice?

- This evidence gathering will ensure the SPS is compliant with the new legislation.
- The policy will advise and inform employees and managers as to their statutory rights.
- The policy will provide employees with caring responsibilities with an entitlement to additional time off to support a positive work life balance.
- The policy will provide employment protections to carers who access the policy, thereby contributing to the elimination of discrimination, harassment and victimisation.
- The policy will encourage carers to speak to their line manager for signposting to support available both within SPS and out with SPS.

Stage 3: Identifying impact/outcomes.**The Public Sector Equality Duty – will the impact and outcomes of the policy/practice:**

Contribute to eliminating discrimination, harassment, and victimisation?

E.g.

POSITIVE:

It will contribute to eliminating discrimination, harassment, victimisation



<ul style="list-style-type: none"> <i>Raise awareness of our SPS vision and values for equality and diversity.</i> <i>Challenge appropriately any behaviours or procedures which do not value diversity and advance equality of opportunity.</i> 	NO EFFECT: It will have no effect on discrimination, harassment, and victimisation <input type="checkbox"/>
	NEGATIVE: It will make discrimination, harassment, and victimisation worse <input type="checkbox"/>
Advance equality of opportunity between those who share a protected characteristic and those who do not? E.g. <ul style="list-style-type: none"> <i>Remove or minimise disadvantage.</i> <i>Meet the needs of equality groups that are different from the needs of others participation in public life.</i> 	POSITIVE: It will advance equality of opportunity <input checked="" type="checkbox"/>
	NO EFFECT: It will have no effect on equality of opportunity <input type="checkbox"/>
	NEGATIVE: It will reduce equality of opportunity <input type="checkbox"/>
Foster good relations between those who share a protected characteristic and those who do not? E.g. <ul style="list-style-type: none"> <i>Tackle prejudice</i> <i>Promote understanding</i> 	POSITIVE: It will foster good relations <input checked="" type="checkbox"/>
	NO EFFECT: It will have no effect on good relations <input type="checkbox"/>
	NEGATIVE: It will cause good relations to deteriorate <input type="checkbox"/>

Fairer Scotland Duty 2018 - Socio-Economic considerations

Will the policy reduce inequalities of outcome as outlined within the Guidance Document?

It will take steps to reduce socio-economic inequalities. ☒

It will make no impact on reducing socio-economic inequalities. ☐

Human Rights

European Convention on Human Rights

Article 2	Right to life (e.g. suicide prevention)
Article 3	Prohibition of torture (e.g. person unable to consent)
Article 4	Prohibition of slavery & forced labour (e.g. safeguarding vulnerable people)
Article 5	Right to liberty & security (e.g. security procedures)

Article 6	Right to a fair trial (e.g. disciplinary procedures)
Article 7	No punishment without law (e.g. disciplinary procedures)
Article 8	Right to respect for private & family life (e.g. access to family)
Article 9	Freedom of thought, conscience & religion (e.g. sacred space)
Article 10	Freedom of expression (e.g. whistleblowing procedures)
Article 11	Freedom of assembly & association (e.g. trade union recognition)
Article 12	Right to marry (e.g. pregnancy)
Article 14	Prohibition of discrimination (e.g. protected characteristic groups)
Protocol 1 Article 1	Protection of property (e.g. staff/prisoner property)
Protocol 1 Article 2	Right to education (e.g. accessible information)
International Covenant on Economic, Social and Cultural Rights. Rights to: Work in just and favourable conditions Social protection An adequate standard of living The highest attainable standards of physical and mental health Education	
It will uphold human rights articles. <input checked="" type="checkbox"/>	
It will breach human rights articles. <input type="checkbox"/>	

Stage 4: Analysis of impact/outcomes

This new/revised policy/practice will have an impact/outcome on one or more of the 3 main duties of the Public Sector Equality Duty, Socio-Economic considerations as defined within Fairer Scotland Duty 2018 and Human Rights articles for people in custody or staff. Use the sections below to detail the impact, and justify your assessment using the data and evidence you have already gathered (via statistics, consultation, etc.)

Positive Impact or Outcome

How does the new/revised policy or practice reduce barriers or issues for people with protected characteristics/Reduce discrimination/harassment or victimisation against any equality group/Have a positive impact on community relations internally and/or externally/Support any equality groups’ access to a service or any other aspect of prison life/Reduce any equality group entry or progression as a member of staff, breach human rights articles or Reduce the socio-economic barriers experienced by our staff, those within our care, and those we come into contact with?

Protected Characteristics (*Detail the specific impact on each protected characteristic you have identified*)

The language used in this new policy is consistent with SPS policy language and is designed non-discriminatory throughout. Whilst the policy is only accessible to those with caring responsibilities as defined in the legislation; it is open to all carer’s regardless of any protected characteristics. The policy will signpost all employees, including those who do not meet the definition of being a career, to other avenues for accessing time off for unplanned/emergency dependent care and to other support e.g. employee assistance programme.

Employees who fall into the protected characteristic groups highlighted below are more likely to be carers and therefore, the Carer’s Leave Policy will have a positive effect buy offering more flexibility for accessing time off for caring responsibilities.

• **Disability**

The policy is designed to have a positive impact on all carers. The policy is likely to disproportionately benefit people who are disabled as the proportion of disabled carers is greater than the proportion of disabled employees.

Disability	Carers	All employees
Equality Act Disabled	22%	12.6%
Not Equality Act Disabled	78%	87.4%
Total	100%	100%

Source: BEIS internal analysis, Labour Force Survey, Jan-Mar 2019

There is a risk of indirect disability discrimination if an individual with caring responsibilities is treated unfavourably because of their caring responsibilities. [The State of Caring 2023 report](#) highlights that 29% of carers have a disability themselves. The SPS Carer’s Leave policy entitles all carers to time off, irrespective of disability, so reduces the risk of unfair treatment. The policy also sets out the employment protections afforded to carers accessing the policy.

• **Sex**

The Carer’s Leave Policy is available to all staff irrespective of sex, however, cultural expectations and gender norms mean that women are more likely to take on the role of carer. The [Carers Census, Scotland, 2022-23](#) reports that (74%) of respondents were female across all age groups but that this was higher in the working age group. The introduction of the policy will provide support to this group.

• **Age**

The Carer’s Leave Policy is available to all staff irrespective of age. However, the [Carers Census, Scotland, 2022-23](#) reports that 60% of carers responding to the census were working age (18 - 64 year old) adults and [The State of Caring 2023 report](#) showed that approximately 84% are aged over 45. The introduction of this policy will provide support to all staff irrespective of age.

Socio-Economic Considerations:

[Carers Census, Scotland, 2022-23](#) reported that “people living in areas within the most deprived SIMD decile appear more likely to experience impacts on their finance and employment. For instance, impacts on carers’ finances were reported for 36% of carers in all SIMD deciles, but were reported for 44% of carers living in areas within the most deprived SIMD decile”.

A key objective of introducing this policy would be to better support carers in managing their caring and work responsibilities. An entitlement to leave, similar to existing rights available to parents, will help carers achieve a better work-life balance. Policies that promote a healthier work-life balance can yield real benefits to employees. Indeed, in feeling more in control of their working lives, people are likely to benefit from improvements in their health and overall well-being. There is a clear link between caring and negative health and social outcomes, which emerges from the evidence base.

Human Rights:

- This policy takes cognisance of the articles set out in the Human Rights Act and seeks to uphold these, and in particular:
 - **Article 8** - Right to respect for private and family life, home, and correspondence.
- Consideration has been given to Article 14 and no potential discrimination under this article was identified.
- The policy will be monitored on an ongoing basis to ensure that there is no breach of Human Rights in its application.

Negative Impact or Outcome

Please detail any negative impact identified through your evidence gathering and consultation on equality groups or human rights. Please also indicate whether there are negative implications for groups experiencing socio-economic inequalities.

Protected Characteristics: *(Detail the specific impact on each protected characteristic you have identified)*

No negative impacts have been identified.

Socio-Economic Considerations:

No negative impacts have been identified.

Human Rights:

No negative impacts have been identified.

Mitigation

Any aspect of the policy/practice that has a negative impact must either be mitigated to a reasonable, objectively justifiable level, or abandoned altogether if this is not possible. Please detail the steps taken to mitigate above negative impact.

N/A

Stage 5: Identifying options and course of action.

Select relevant outcome:

Outcome 1: Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified. ☒

Policy/practice addresses the intended outcome and is positive in its language and terminology. It advances equality and human rights as well as fosters good relations.

Outcome 2: Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles. ☐

Outcome 3: Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out). <input type="checkbox"/>
Outcome 4: Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified. <input type="checkbox"/>

Summary of outcome decision and any other recommendations
<p>The policy addresses the intended outcome and is positive in its language and terminology. It advances equality and human rights as well as fosters good relations.</p> <p>Recommendations:</p> <ul style="list-style-type: none">• Policy is made accessible to all staff on SharePoint.• Policy launch communicated via Notice to Staff.• Communications to HR teams and line managers to ensure awareness of and application of policy.• Continued access to Occupational Health, Employment Assistance Programme and wider Health and Wellbeing offer. <p>Outcome is to launch the new policy. Research and consultation undertaken through the development and associated support indicates the introduction will have a positive impact. Specific positive impacts addressed by the policy include meeting legislative requirements and providing employees with caring responsibilities with increased flexibility and contributing to a more positive work life balance. There have been no negative implications for employees identified, therefore the recommendation is to publish the policy.</p>

Inclusive Communications
<p><i>What consideration have you given to the communication needs of those who will be impacted by your policy/practice, and what steps are you taking to ensure your policy/practice will be easily understood by them? For example, accessible formatting of document, alternative formats such as Plain English, Easy Read, foreign language translations, BSL translation, etc. Your local E&D Manager will be able to advise on options available for Easy Read and translations through SPS' procured translation services.</i></p>
<p>The Policy will be published on SharePoint and therefore will be available to staff in various fonts and text sizes and using assisted technology.</p>

Outline plans to action and review the impact of the new/revised policy/practice. <i>Note: any evidence that raises concern would trigger an early review rather than the scheduled date. Indicate if there is any data which needs to be collected as part of action to be taken and how often it will be analysed. Indicate how the person responsible will continue to involve relevant groups and communities in the implementation and monitoring of the new/changed policy/practice.</i>	
What:	Analytics on policy application/carer’s leave taken. Anecdotal feedback from HR Teams, Trade Unions, Line Managers. Analytics on interactions with SharePoint policy page.
Why:	To monitor for unexpected negative consequences and identify opportunities for improvement. To provide opportunity to respond to any changing business needs or external factors.
Who:	ER&R.
When:	As and When the Need Arises.
Name of lead:	Sharleen MacFarlane
Date:	01/04/2024

Please refer to the [Guidance document](#) for details of publication requirements.