

BRIEFING - The Care Gap

1. Context: Caring as Invisible Infrastructure

Unpaid carers underpin the UK economy and public services. Millions of people combine paid work with caring responsibilities for disabled children, partners with long-term conditions, or ageing relatives. Without this unpaid labour, health, education and social care systems would be unable to function.

Despite this, caring remains largely invisible in law, policy and workplace design. Most organisational models still assume uninterrupted availability, predictable working hours, and a clear separation between work and home life.

For carers, particularly parents of children with SEND and those supporting people with complex or fluctuating needs, these assumptions do not reflect reality.

2. The Legal Position: Protection Without Recognition

Under the **Equality Act 2010**, carers are not recognised as a protected characteristic.

Carers may receive limited protection through **discrimination by association**, established in *Coleman v Attridge Law*, where unfavourable treatment is directly linked to their association with a disabled person. However, this protection is narrow and reactive.

Critically, the courts have confirmed that employers **do not have a duty to make reasonable adjustments for carers** (*Hainsworth v Ministry of Defence*). In practice, this leaves carers reliant on goodwill rather than enforceable rights.

The law recognises disability, but not the reality of care.

3. Employment Rights: A Low Baseline

Recent changes have improved the position slightly:

- From April 2024, employees have a **day-one right to one week of unpaid carers' leave**
- Existing rights include **unpaid time off for dependants in emergencies**
- Employees have a **right to request flexible working**

While welcome, these measures do not amount to equality protection:

- Leave is unpaid and therefore inaccessible to many
- Flexible working requests can be refused
- There is no requirement for organisations to design work around caring responsibilities

4. Why Support Is Patchy and Why This Matters

Because the legal baseline is weak, support for carers varies significantly between organisations.

Some employers offer:

- Paid carers' leave
- Carers' networks
- Flexible progression pathways
- Trained and supported managers

Others provide only statutory minimums.

This inconsistency leads to predictable outcomes:

- Inequality between workers
- Increased stress and burnout
- Loss of skilled and experienced staff

Many carers manage quietly until they reduce hours, step back from progression, or leave the workforce altogether. From a workforce perspective, this represents **avoidable attrition**.

5. Why Carers Need Stronger Rights

Stronger rights would:

- Promote fairness and consistency
- Improve retention of experienced staff
- Support health and wellbeing
- Reduce long-term recruitment and training costs
- Increase workforce resilience

Supporting carers is not a niche issue. It is a structural one that affects labour supply, productivity, equality outcomes and public service sustainability.

6. The Role of Carers' Networks

Carers' networks are one of the most effective practical interventions available to organisations.

Where they exist, networks:

- Provide peer support
- Reduce stigma
- Inform policy design
- Identify gaps between policy and practice
- Give carers a collective voice

They move caring from a private, individual issue to an organisational consideration.

7. Flexibility and Paid Leave: Design, Not Discretion

Flexibility should be designed into roles, including senior roles, rather than treated as an exception.

Paid carers' leave is particularly important. Unpaid leave:

- Excludes those who cannot afford to take it
- Forces carers to use annual leave or sickness absence for predictable needs

Paid leave signals that caring is legitimate labour, not a personal inconvenience.

8. Comparator: Guernsey

Guernsey has adopted a more progressive approach by recognising **carer status as a protected ground** under its discrimination legislation.

This demonstrates that:

- Direct recognition of carers is workable
- Legal definitions are manageable
- Recognition is proportionate, not radical

It provides a credible comparator for reform discussions in Great Britain.

9. Caring and the Gender Pay Gap

The Care Penalty

Gender pay gap reporting shows consistent patterns:

- Gaps widen with age
- Representation thins at senior levels
- Progression slows at mid-career

What these figures often obscure is the role of caring.

The gender pay gap is not primarily about unequal pay for equal work; it is about **who progresses into higher-paid roles**.

Caring and Progression

Women are significantly more likely to be unpaid carers and more likely to adjust their working lives as caring demands increase. For parents of disabled children and those caring for older relatives, these adjustments are often long-term.

Pay gap data reflects this cumulative penalty:

- Reduced hours
- Stepping out of leadership pipelines
- Workforce exit

This is not a lack of ambition or capability; it is a response to inflexible systems.

10. The Legal and Policy Gap Feeds the Pay Gap

Because carers lack protected status and proactive accommodation rights, many manage risk rather than push for change. They:

- Decline opportunities incompatible with care
- Self-select out of promotion
- Accept roles below their capability

This behaviour is often misread as preference or confidence. In reality, it is rational decision-making within constrained systems.

11. Why Caring Must Be Addressed in Pay Gap Action Plans

Organisations serious about narrowing gender pay gaps should:

- Recognise caring as a material factor in pay outcomes
- Link carers' retention to pay gap reduction strategies
- Analyse where carers sit in pay quartiles
- Design flexibility into senior roles
- Provide paid carers' leave to prevent workforce exit

Without this, pay gap reporting risks being descriptive rather than corrective.

12. Leadership Design, Not Leadership Potential

The under-representation of women at senior levels is often framed as a pipeline problem. In reality, it is frequently a **design problem**.

Organisations that redefine leadership around outcomes rather than presence:

- Retain more carers
- Broaden the talent pool
- Reduce pay gaps at senior levels

Conclusion

The care gap is both an equality issue and an economic issue.

Supporting carers is not about special treatment. It is a proportionate response to modern caring realities and a strategic investment in workforce resilience.

As care needs rise across society, failing to support carers will continue to drive workforce exit, inequality and widening pay gaps. Addressing this gap, particularly as part of SEND reform, offers a practical route to better outcomes for families, employers and the wider economy.

A) How many carers / how common are working carers?

Census-based estimate: 5.8 million unpaid carers in the UK (Census 2021).

Source (Carers UK summary referencing Census 2021):

<https://www.carersuk.org/policy-and-research/key-facts-and-figures/>

High-intensity caring: 1.7 million people providing 50+ hours of care per week (UK).

Source (Carers UK summary referencing Census 2021):

<https://www.carersuk.org/policy-and-research/key-facts-and-figures/>

England & Wales detail: approx 4.7m unpaid carers in England and 310k in Wales (Census 2021).

Source (ONS):

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/socialcare/articles/unpaidcarebyagesexanddeprivationenglandandwales/census2021>

Hours distribution and “50+ hours” counts (England/Wales) – ONS bulletin.

Source (ONS):

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandwellbeing/bulletins/unpaidcareenglandandwales/census2021>

Working carers prevalence: “around 1 in 7” people in any workplace (Carers UK employer-facing evidence).

Source (Carers UK – Business case / Employers for Carers):

<https://www.carersuk.org/for-professionals/support-for-employers/employers-for-carers/business-case/>

“1 in 7 of the UK workforce” are carers (press release, with wider figures).

Source (Carers UK):

<https://www.carersuk.org/press-releases/research-more-than-600-people-quit-work-to-look-after-older-and-disabled-relatives-every-day/>

B) Caring is gendered / unpaid work patterns

Women do more unpaid work than men (UK time use): women 3h 37m per day vs men 2h 43m — a 54-minute gap.

Source (ONS, Time use in the UK, Sept–Oct 2023):

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/timeuseintheuk/23septemberto1october2023>

ONS analysis: women carry out ~60% more unpaid work than men (historic ONS analysis).

Source (ONS):

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/articles/womenshouldtheresponsibilityofunpaidwork/2016-11-10>

Women are more likely to be unpaid carers than men (England & Wales; Census 2021 analysis).

Source (ONS article PDF):

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/socialcare/articles/unpaidcarebyagesexanddeprivationenglandandwales/census2021/pdf>

C) The legal position: carers are not a protected characteristic (GB), and how carers are protected indirectly

Equality Act 2010 – list of protected characteristics (carer status not included).

Source (UK legislation):

<https://www.legislation.gov.uk/ukpga/2010/15/section/4>

Discrimination by association (carers protected indirectly) – Coleman case supported by EHRC.

Source (Equality and Human Rights Commission):

<https://www.equalityhumanrights.com/our-work/legal-action-search/protecting-carers-discrimination-work>

Coleman v Attridge Law (C-303/06) – accessible case summary explaining associative discrimination.

Source (Disability Rights UK):

<https://www.disabilityrightsuk.org/coleman-v-attridge-law-stephen-law-c-30306>

Court position on reasonable adjustments for carers: no duty to make reasonable adjustments for a non-disabled employee associated with a disabled person (Hainsworth).

Source (UK government EAT decision page – related litigation context):

<https://www.gov.uk/employment-appeal-tribunal-decisions/dr-c-hainsworth-v-ministry-of-defence-ukeatpa-0227-13-ge>

Explanation of the Court of Appeal outcome in Hainsworth (reasonable adjustments don't extend to associated carers).

Source (Stone King case report):

<https://www.stoneking.co.uk/news/general/case-report-hainsworth-v-ministry-defence>

(If you want a single “case text” source for the Court of Appeal judgment itself, Casemine hosts it here:

<https://www.casemine.com/judgement/uk/5b46f1f12c94e0775e7ee7ec>)

D) Employment rights for carers (and why many supports are unpaid)

Statutory Carer's Leave (unpaid) – official GOV.UK guidance.

Source (GOV.UK):

<https://www.gov.uk/carers-leave>

Carer's Leave Act 2023 in effect from 6 April 2024 (Acas explanation).

Source (Acas):

<https://www.acas.org.uk/carers-leave>

Carer's Leave Regulations 2024 – commencement and legal detail (PDF).

Source (UK legislation PDF):

https://www.legislation.gov.uk/ukdsi/2024/9780348254808/pdfs/ukdsi_9780348254808_en.pdf

Time off for dependants (emergencies) – GOV.UK.

Source (GOV.UK):

<https://www.gov.uk/time-off-for-dependants>

Time off for dependants (explanation, examples) – Acas.

Source (Acas):

<https://www.acas.org.uk/time-off-for-dependants>

Employment Rights Act 1996 s57A – statutory basis for time off for dependants.

Source (UK legislation):

<https://www.legislation.gov.uk/ukpga/1996/18/section/57A>

Flexible working – revised Acas Code of Practice (from 6 April 2024).

Source (Acas):

<https://www.acas.org.uk/acas-code-of-practice-on-flexible-working-requests>

Code of Practice Order 2024 (legal instrument bringing the revised Acas Code into effect).

Source (UK legislation):

<https://www.legislation.gov.uk/uksi/2024/429/>

E) “Support is patchy” / carers can’t afford unpaid leave / caring harms careers

State of Caring 2024: 56% of working carers don’t feel they can use Carer’s Leave due to financial implications (unpaid).

Source (Carers UK):

<https://www.carersuk.org/reports/state-of-caring-2024-the-impact-of-unpaid-caring-on-employment/>

State of Caring 2025: 35% reduced working hours; ~1 in 5 moved to lower paid/more junior role (plus health impacts).

Source (Carers UK):

<https://www.carersuk.org/reports/state-of-caring-2025-the-cost-of-caring-the-impact-of-caring-across-carers-lives/>

(Report PDF version):

<https://www.carersuk.org/media/mtvkquhy/cuk-state-of-caring-2025-cost-of-caring-report-web.pdf>

F) Flexibility is not the default (supports the business argument)

Only 31% of job adverts offer flexible working at the point of hire (Timewise Flexible Jobs Index).

Source (Timewise index page):

<https://timewise.co.uk/article/flexible-jobs-index/>

Timewise Flexible Jobs Index 2023 report PDF (31% figure).

Source (Timewise PDF):

<https://timewise.co.uk/wp-content/uploads/2023/11/Timewise-Flex-Jobs-Index-2023.pdf>

G) Gender pay gap reporting + the UK headline figures (links to the “care penalty”)

ONS: Gender pay gap among full-time employees was 6.9% in April 2025.

Source (ONS bulletin):

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/genderpaygapintheuk/2025>

House of Commons Library briefing summarising ONS headline numbers (6.9% in April 2025).

Source (Commons Library):

<https://commonslibrary.parliament.uk/research-briefings/sn07068/>

Gender Pay Gap reporting legal requirement (250+ employees) – GOV.UK guidance.

Source (GOV.UK):

<https://www.gov.uk/government/publications/gender-pay-gap-reporting-guidance-for-employers>

Regulations (legal instrument): Equality Act 2010 (Gender Pay Gap Information) Regulations 2017.

Source (UK legislation):

<https://www.legislation.gov.uk/ukdsi/2017/9780111152010>

H) Guernsey comparator: carer status protected in discrimination law

Guernsey Ordinance text includes “carer status” as a protected ground (legal resource).

Source (Guernsey Legal Resources):

<https://www.guernseylegalresources.gg/ordinances/guernsey-bailiwick/d/discrimination/prevention-of-discrimination-guernsey-ordinance-2022/>

Guernsey Equality & Employment Service guidance defining “carer status” protected ground.

Source (EEOS):

<https://eeos.gg/resources-organisations-my-issue-about-employing-people-discrimination-prevention-discrimination>