



Committee Secretary
Senate Standing Committees on Community Affairs
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Canberra ACT 2600

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Dear Committee Secretary,

**SUBMISSION TO THE SENATE COMMUNITY AFFAIRS LEGISLATION
COMMITTEE'S INQUIRY INTO THE *FAIRER PAID PARENTAL LEAVE BILL 2016***

Thank you for the opportunity to comment on the *Fairer Paid Parental Leave Bill 2016*.

1. Background

The Northern Territory (NT) Anti-Discrimination Commission (ADC) is a small, independent office established in 1993. We are responsible for promoting equal opportunity and administering the *NT Anti-Discrimination Act* (the Act). In achieving this, we maintain a strong relationship with local communities and engage with them in a range of fora, including public education, training and advocacy along with complaint management.

2. Summary

The NT ADC does not support the changes to the current government-funded Paid Parental Leave (PPL) Scheme.

The current scheme is aimed at employees who are more likely to experience pressure to return to work following the birth (or adoption) of a child in the absence of financial support e.g. those earning less than \$150 000p.a. It provides employees with an entitlement to 18 weeks of leave funded by the Government at the minimum wage, with the expectation that the employer will also contribute further leave entitlements.

The proposal to increase the PPL from 18 to 20 weeks will not address the serious concerns raised by the numerous submissions to this Inquiry.

The NT ADC endorses submissions made by the National Working Women's Centres in the NT, Queensland and South Australia.¹

The NT ADC shares the concerns of those who assist vulnerable women in the workplace on a day to day basis.

Three key concerns with the proposed amendments (as articulated by the Equality Rights Alliance) are:

- The amendments will operate to reduce the total leave available to women, which in turn will reduce women's choices about when to return to work, with significant ramifications for mother and baby health and child development;
- The reduced leave period threatens to decrease women's already low workplace retention rates by increasing the likelihood that a woman will have to refuse a request to return to work; and
- The amendments breakdown the developing culture of employers and Government having shared responsibility for PPL, which is needed to address the current high levels of discrimination against pregnant women and mothers in Australia's workplaces.²

The NT ADC's submission will only focus on the last two areas which are within our expertise and articulating the NT experience.

3. Gender Inequality and the PPL

By its very nature, and as stated in its primary objectives, the PPL recognises there is a gendered gap in the opportunities and remuneration men and women receive in Australian workplaces. Statistics show that the vast majority of people using the scheme are women, with 99% being women in 2012-13.³

(a) Discrimination and working women

In 2014, the Australian Human Rights Commission (AHRC) released the '*Supporting Working Parents – Pregnancy and Return to Work National Review Report*'. Some of the findings were:

- 49% of mothers experience discrimination at some stage during pregnancy, parental leave or returning to work;
- 91% of women and 95% of fathers / partners did not make a formal complaint to their employer;

¹ National Working Women's Centres, *Submission to the Senate Standing Committee on Community Affairs – Re Fairer Paid Parental Leave Bill 2016* (2016) National Working Women's Centres.

² Equality Rights Alliance, *Submission to the Senate Community Affairs Legislation Committee's Inquiry into the Fairer Paid Parental Leave Bill 2016* (9 December 2016) Equality Rights Alliance.

³ Australian Government, *Paid Parental Leave Scheme Review Report* (2014) Department of Social Services

<https://www.dss.gov.au/sites/default/files/documents/06_2014/paid_parental_leave_scheme_review_report.pdf> 28.

- For mothers, 1 in 5 (15%) were made redundant/restricted, dismissed or their contract was not renewed; and
- 84% of mothers who experience discrimination reported a negative impact, including mental health and financial hardship.⁴

(b) Discrimination in the NT

Complaints received by the NT ADC support the AHRC's national findings. In recent years, we have received eight – eleven pregnancy complaints per year and five – sixteen relating to parenthood. Given the widespread under-reporting of discrimination, these are clearly only the tip of the iceberg. The NT ADC also receives a far great number of informal enquiries in relation to these issues in the workplace.

NT Trends

From 2014 to present, the workplace has remained the most common site for reporting discrimination.⁵ In the same period, a general trend shows an overall increase in reporting discriminatory conduct connected to the kinds of issues raised around PPL. The relevant attributes in our Act that may capture complaints are:

- failure to accommodate a special need;
- sex;
- sexual harassment;
- marital status;
- parenthood; and
- pregnancy.⁶

In 2013-14, there was a 94% increase in sexual harassment complaints, along with an increase in complaints related to sex and sexuality.⁷ Complaints in all of these areas have remained high.

The NT ADC continues to hear about the widespread prevalence of sexual harassment outside the complaint process, through enquiries, community engagement, public education and information sessions.

The NT ADC is acutely aware that discrimination and sexual harassment lead to women leaving their workplace, in particular with sexual harassment allegations, where women have frequently left before the complaint or leave during the complaint process. Overall, these statistics indicate that gendered inequality remains an endemic and significant issue for all residents of the NT.

⁴ Australian Human Rights Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review Report* (2014) Australian Sex Discrimination Commissioner <<https://www.humanrights.gov.au/our-work/sex-discrimination/publications/supporting-working-parents-pregnancy-and-return-work>>.

⁵ NT Anti Discrimination Commission, *Annual Report 2015-16* (September 2016) Anti-Discrimination Commissioner <<http://www.adc.nt.gov.au/resources/publications.html>>.

⁶ *Anti Discrimination Act NT*, s 19.

⁷ NT Anti Discrimination Commission, *Annual Report 2013-14* (2014) Anti Discrimination Commissioner <http://www.adc.nt.gov.au/resources/annual_reports.html> 44.

The introduction of the PPL has been one way of evening up the issue at an individual level for women who have been able to utilise it and stay in the work force and connected to their work place while off work. The PPL also serves a much greater role in achieving social change in attitudes to women at work. It sends the message that their contribution is valued, and that workplaces and society via government contribution wants them to return and continue contributing in the work place.

(c) Individual stories behind the statistics

The NT ADC has conciliated matters where a complainant unexpectedly fell pregnant and told her employer immediately. She received no access to training, was given low-level tasks not originally part of the job and was terminated 6 weeks before her baby was due.

In another instance, the NT ADC was consulted for advice on a situation where a woman was selected for a 6-month fixed term contract. She then advised the selection panel she was pregnant and due to commence maternity leave two weeks into the contract and initially had her offer revoked.

In previous consultations, the NT Working Women's Centre (NTWWC) has provided the NT ADC with information based on their client interactions. In 2012-2013, pregnancy was the most common discrimination issue reported to them. In 2015-2016, it was the second most common issue.⁸ NTWWC has stated,

We know that women are sacked from their jobs because they are pregnant, but the pregnancy is often thinly veiled as 'redundancy'...

Many casual workers find that their shifts mysteriously dry up after they tell their manager that they are pregnant. This often comes after a period of stable and reliable employment where issues of poor performance or a business down turn have never been raised...

Women who disclose their pregnancy often have their hours cut. They are told it's because the employer needs to protect the baby and doesn't want the worker to be stressed. This happens in instances where the workers are fit and well and need the money. And they have a right to their usual hours of work.⁹

In one local matter, NTWWC provided advocacy where a manager had worked for an organisation for five years. They became pregnant and were dismissed two days later and asked to leave immediately. Their termination letter made no mention of any performance concerns.¹⁰

The Working Women's Centres in Queensland and South Australia wrote a joint national submission with NTWWC to the AHRC 'Supporting Working Parents' review.¹¹ Stories were de-identified and came from a mix of these jurisdictions but

⁸ NT Working Women's Centre, *Annual Report 2015-16* (2016) NT Working Women's Centre <<http://www.ntwwc.com.au/submissions-and-reports>>.

⁹ NT Working Women's Centre, *Private Email – Case Studies of Pregnancy Information*, Rachel Uebergang to NT Anti Discrimination Commissioner (2 May 2014).

¹⁰ Ibid.

¹¹ Australian Human Rights Commission, *Supporting Working Parents – Pregnancy and Return to Work National Review* above n 4.

experiences from the NT were important contributions. The stories were diverse but common themes arose supporting NTWWC's earlier comments. Some are included below.

Michaela was pregnant and was experiencing bullying at work by her manager. Her manager would micro-manage all her work, and constantly criticise and nit-pick her in front of her colleagues. One day at work Michaela experienced heavy bleeding and miscarried her baby. She went home on sick leave. The next day while she was recovering and grieving at home, her manager emailed her a piece of work she had completed for him the week before, outlining all of her errors. When Michaela fell pregnant for the second time, she was too scared to tell her boss and tried to hide her pregnancy as long as possible.¹²

Penelope is pregnant. She informed her supervisor that she needed a day off work to attend antenatal appointments and this was noted on the roster. The next day she went in to work and was told she was suspended for not showing up at work.¹³

Salima has worked with her company for 7 years. A year ago she argued that her position should be reclassified as a manager's position but this was refused. She is currently on maternity leave, but is continuing to do some work whilst on leave. There is another employee acting in her position. Last month Salima found out that her position is being made redundant, and the employee acting in her position was being promoted to a new 8 position, with the same duties as Salima's permanent position, only reclassified as a manager position. The position was not advertised.¹⁴

The themes raised in these stories pose important questions about how to address the systemic barriers women face in achieving full and equitable workforce participation. It highlights the importance of the PPL as a show of leadership by government to generate positive change. The work of reshaping predominant ideas about women and paid parental leave cannot be left to individual businesses alone. It requires the kind of broad cultural shift in thinking that can only be led by national action to foster diversity in workplaces.

4. The role of PPL in promoting cultural change

A key role played by the current PPL is its contribution to changing the horrific stories and findings of the AHRC 'Supporting Working Parents' review¹⁵ about pregnancy and parenting in the workplace. In its current form, it leads to employers developing their own PPL schemes to attract and retain employees using the 18 weeks leave at the minimum wage as the base. The current arrangement normalises PPL in the workplace and, as paid leave, values the role of women and parents in the Australian workplaces.

¹² National Working Women's Centres, *Submission to the 'Supporting Working Parents – Pregnancy and Return to Work National Review'* National Working Women's Centres (2014) <<https://www.humanrights.gov.au/submissions-supporting-working-parents-pregnancy-and-return-work-national-review>>.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Australian Human Rights Commission, *Supporting Working Parents – Pregnancy and Return to Work National Review* above n 4.

The journey, though, is only at its beginning, as it was clear in the findings from the *'Supporting Working Parents'* review. For example, 27% of the fathers and partners surveyed who utilised PPL also experienced discrimination in the workplace related to parental leave or return to work, despite the fact that 85% of them took less than four weeks of leave.¹⁶

Reducing the PPL as proposed will further set back its standing and value in workplaces. As set out earlier, women are its biggest users, and so will be disproportionately affected by any change or winding back of what is currently available.

5. Women's low participation in workforce and the role of the PPL in enhancing this participation

Statistics clearly demonstrate that nationally, women are over-represented in casual and part-time work. The ABS found that in 2016,

- The workforce participation rate for women is 59.3% compared with the male rate of 70.4%;
- Women are more likely than men to be in part-time or casual work;
- Women make up 71.6% of all part-time employees, 36.7% of all full-time employees and 54.7% of all casual employees.¹⁷

As illustrated, discrimination and sexual harassment impede participation. One of the PPL's strengths is keeping women connected to the workplace whilst on leave, and also engaging with their employer via paid PPL. This increases the chances of return to work to the same employer, which has many benefits when compared to starting in a new organisation or not returning to the work force for some time.

6. Implications of proposed changes for rural and remote NT parents

Whilst current proposals seek to reduce PPL entitlements, there are no symmetrical recommendations for an increase in government-subsidised childcare services. The *'Supporting Working Parents'* review found the availability of early childhood education and care services was a highly influential factor in whether parents returned to work.¹⁸ The review also found that where childcare services did not align with working hours, especially for weekend or night shifts, this became a significant barrier to workforce participation.¹⁹

Furthermore, a survey of human resource professionals by the Australian Human Resources Institute found that 20% of respondents reported local, affordable childcare

¹⁶ Ibid.

¹⁷ Australian Bureau of Statistics, *6202.0 Labour Force, Australia, November 2016* (November 2016) Australian Bureau of Statistics <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0/>>.

¹⁸ Australian Human Rights Commission, *Supporting Working Parents – Pregnancy and Return to Work National Review* above n 4, 119.

¹⁹ Ibid.

as the single most significant support that would assist in accommodating parents returning to work.²⁰

The Australian Work and Life Index 2012 survey found that a key reason for women and men requesting flexible work arrangements was to meet childcare needs. Women are much more likely to request on this basis, with 34% in comparison to men at 20.7%.²¹

It is clear from this research that childcare availability is a crucial factor in supporting parents to return to work. If PPL users receive less overall leave entitlements because of proposed changes, in order to return to work, many will likely rely on childcare services. If there is an increase in need due to parents needing to return to work earlier for financial reasons, this is concerning issue for the NT, where many areas are significantly under-serviced for childcare.

For example, Tennant Creek is a remote town about 500km North of Alice Springs. The Australian government 'My Child' online service allows the public to search all available childcare by postcode.²² A search for Tennant Creek showed only one long day care service, with no after school care or holiday care services. There were no listed vacancies, indicating there are likely waiting lists for current services.

According to the ABS, in 2014, Tennant Creek had 345 children under the age of 4 and 82 births.²³ The latest available records from 2012 show there were 123 one-parent families with dependents under the age of 15.²⁴ These figures indicate that in some regions, childcare services which are nationally funded under the Budget-Based Funding model are struggling to meet demand. Many rural and remote areas in the NT face similar challenges.

7. Conclusion

The NT ADC recommends the PPL remain as it is and the proposed changes are rejected. PPL is not a luxury or a form of 'double dipping' but a crucial part of the structural reform needed to ensure women's participation in the workforce.

The continued operation of the PPL in its current form represents an important step in the continuum of measures needed to instigate meaningful cultural change to change structural and substantive gender inequities. Fostering a culture where women

²⁰ Australian Human Resources Institute, *Submission to the Supporting Working Parents – Pregnancy and Return to Work National Review* (2014) Australian Human Resources Institute <<https://www.humanrights.gov.au/sites/default/files/Australian%20Human%20Resources%20Institute%20Public%20Submission.pdf>>.

²¹ N Skinner, C Hutchinson & B Pocock, *AWALI 2012 The Big Squeeze: Work, home and care in 2012*, Centre for work and life, University of South Australia (2012) 66.

²² Australian Government, *mychild.gov.au* (2016) Australian Government <<https://www.mychild.gov.au/>>.

²³ Australian Bureau of Statistics, *Tennant Creek (SA2)* Australian Bureau of Statistics (2014) <http://stat.abs.gov.au/itt/r.jsp?RegionSummary®ion=702021056&dataset=ABS_REGIONAL_ASGS&geoconcept=REGION&datasetASGS=ABS_REGIONAL_ASGS&datasetLGA=ABS_REGIONAL_LGA®ionLGA=REGION®ionASGS=REGIO>.

²⁴ Ibid.

workers are valued in an inclusive workforce that prioritises diversity and welcomes parents can only assist the journey towards equal opportunity.


Yours sincerely,

Sally Sievers

Anti-Discrimination Commissioner

Northern Territory Anti-Discrimination Commission

16 December 2016