

31 October 2016

Senator the Hon Michaelia Cash
Minister for Employment, Minister for Women, and Minister Assisting the Prime Minister for
the Public Service
PO Box 6100
Canberra ACT 2600

Dear Senator Cash,

Cancellation of meeting with your state counterparts

Kingsford Legal Centre (KLC) is concerned about your decision to cancel a meeting with the state workplace relations ministers. We are disappointed by your decision as it would have provided an opportunity to address the issue of domestic/family violence leave with your state counterparts. Given the Liberal Party's commitment to tackling domestic and family violence, we submit the Government should address the difficulties that women experience in the workplace due to the physical, emotional, and financial impacts of experiencing domestic/family violence. Specific domestic/family violence leave within the National Employment Standards would be one means of doing this.

About Kingsford Legal Centre

KLC is a community legal centre that has been providing legal advice and advocacy to people

Recommendation

The *Fair Work Act 2009* (Cth) National Employment Standards should be amended to require employers to provide 10 days of paid domestic/family violence leave to both men and women experiencing domestic/family violence.

We note that you have previously publicly commented that introducing paid domestic/family violence leave would act as a 'perverse disincentive' for employers to not hire women. Similar arguments were made against the introduction of parental leave. We submit that it is in the public interest for domestic/family violence leave to be introduced, and employers deciding not to hire women on the basis of such leave would amount to discrimination under the law. Furthermore, many employers in the private and public sector have voluntarily introduced domestic/family violence leave into their enterprise agreements, which reflects growing community acceptance of the role workplaces have to play in assisting domestic/family violence survivors in remaining in employment. There is no evidence base to suggest that the introduction of domestic/family violence leave would act as a disincentive for employers to hire women.

It is imperative that the endemic nature of domestic/family violence is recognised within employment law. We submit that measures should be introduced within the workplace relations framework to ensure that survivors and victims of domestic/family violence continue to engage in the workforce.

We recommend amending the National Employment Standards to provide for an entitlement to domestic/family violence leave. Employees experiencing domestic/family violence, or who are providing care for a family member who is experiencing domestic/family violence, may need to access time off work that would not normally be available through personal or carer's leave. Introducing domestic/family violence leave into the National Employment Standards will address the following barriers to remaining in employment by women in domestic/family violence situations:

Firstly, a victim of domestic/family violence may often need time off work to deal with the legal and social issues that result from domestic violence. For example, they may need to attend court hearings or meet with police, find new accommodation or schools for their children, and attend legal or medical appointments.

Secondly, without an NES requirement to provide domestic/family violence leave, victims are reliant on their employer's flexibility and goodwill in accessing other types of leave. This leads to a lack of uniformity in the system, and presents an additional, unneeded risk to women already suffering from domestic/family violence of losing their employment and financial independence.

Thirdly, depending on the nature of the domestic/family relationship, the victim may often be reliant on the abuser's finances. Because of this, escaping from this situation may result in a period of financial hardship for the victim. Financial hardship may be worsened if the victim does not have any paid leave entitlements or cannot remain in employment.

Victims and survivors of domestic/family violence often do not report it for fear of the consequences that will follow. If the above three issues are alleviated through the introduction of paid domestic/family violence leave, victims will be better positioned to report or leave a domestic/family violence relationship. If these issues are not addressed, Australia's culture of domestic and family violence is enabled to continue.

We commend the Liberal Party for its strong commitment to tackling domestic/family violence. Currently there is national attention on the issue, and strong support for amendments to the National Employment Standards to include domestic/family violence

leave provisions. KLC submits that it is the right time for the Government to take legislative action to address this issue, rather than rely on the discretion of individual employers.

Please contact us on (02) 9385 9566 should you wish to discuss this further.

Yours sincerely,

KINGSFORD LEGAL CENTRE

Anna Cody
Director

Maria Nawaz
Solicitor

Nicholas Vardanega
Student Law Clerk