



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 in the Randwick and Botany Local Government areas in New South Wales since 1981. KLC provides advice on a wide range of legal issues, including domestic violence. KLC also has a specialist employment law service, a specialist discrimination law service (NSW wide) and an Aboriginal Access Program. In addition to this work, KLC also undertakes law reform and policy work in areas where the operation and effectiveness of the law could be improved.

In 2015, KLC provided over 1700 advices and ran over 280 cases. In 2015, we provided 526 advices on employment law, and 61 on domestic violence.

Domestic/family violence leave should be introduced into the National Employment Standards

KLC requests that you reconsider your decision to postpone your meeting with state workplace relations ministers and/or introduce a Bill to amend the *Fair Work Act 2009* (Cth).

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.

Domestic/family violence is prevalent

Domestic violence remains an alarming issue in Australia. 15% of Australian women experience physical or sexual violence from a previous partner, and 2.1% experience it from a current partner¹. Domestic and family violence is the leading preventable cause of death, disability and illness for Australian women under 45 years of age². Further, it is estimated that violence against women and children will cost the Australian economy \$15.6 billion by 2021-2022 unless the rate and extent of violence is reduced³.

For these reasons, the ways in which domestic violence is dealt with in the workplace is a pressing issue. We submit it needs to be addressed through ministerial consideration and legislative action, rather than the discretion of individual employers.

Domestic/family violence victims have difficulty remaining in the workforce

The Australian Domestic and Family Violence Clearinghouse’s *National Domestic Violence and the Workplace Survey* found that domestic/family violence impacted substantially on workers. Domestic/family violence can limit workers’ capacity to get to work; expose them to violence in the workplace through abusive calls and emails, and the abusive person attending the workplace; and can result in them being tired, distracted, unwell or late⁴.

¹ ABS, *Personal Safety Survey*, 2005.

² This figure includes the costs that result from the impact of domestic/family violence on workforce participation (see VicHealth, *The Health Costs of Violence*, 2004, at 10).

³ National Council to Reduce Violence Against Women and their Children, *The Cost of Violence Against Women and Their Children*, March 2009, at 4.

⁴ McFerran, L, *National Domestic Violence and the Workplace Survey*, Australian Domestic and Family Violence Clearinghouse, October 2011.

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

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