

## **Select Committee on Work and Care: Submission of the Australian Nursing and Midwifery Federation (Victorian Branch)**

### **Introduction**

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. ANMF (Victorian Branch) represent the professional, industrial, and political interests of more than 97,000 nurses, midwives, and carers across the state of Victoria.
2. Our members work in the public and private health, aged care, and disability sectors across a wide variety of urban, rural, and remote locations. This workforce remains highly gendered, with approximately 89 percent of the health workforce identifying as female. ANMF (Vic Branch) works with members to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals, and achieve a healthy work/life balance.

### **... the extent and nature of the combination of work and care across Australia and the impact of changes in demographic and labour force patterns on work-care arrangements in recent decades**

3. Whilst women's participation in paid work has increased considerably over the past 50 years Australian women still participate in the workforce at lower rates than men. As of June 2021 the gap in participation rates between genders was estimated at 8 percent.<sup>1</sup>
4. The gendered distribution of unpaid work, especially caring responsibilities, has been extensively evidenced. While the share of caring and other domestic responsibilities undertaken by male-identifying partners, parents and family members remains disproportionate, female-identifying partners have reduced opportunity to participate either in the full-time paid workforce or in the workforce at all. This is a major contributing factor to the disproportionate number of female-identifying workers in part-time employment.
5. As such, historically most of the growth in women's participation has been in part-time employment. Since mid-2017 growth has been stronger for full-time employment; but the proportion of part-time employment remains high, with over 42 percent of women in part time employment as of October 2021.<sup>2</sup>
6. While women still shoulder the bulk of caring responsibilities at home, importantly men too have taken on increased responsibility for domestic labour including as carers over the last 50 years. What was once exclusively the domain of women has increasingly had to be distributed between partners by the necessity of paid work. Australian households are now generally double income households, meaning that domestic labour (including caring responsibilities) which was once most commonly the full-time domain of a woman at home, must now be done by all people in addition to paid work.<sup>3</sup>
7. Efforts to increase women's labour force participation – including the proportion of full-time work – has led to some significant improvements over time in industrial entitlements, discrimination laws and social policy. These include paid parental leave schemes (employer

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<sup>1</sup> ABS, *Labour force, Australia, Detailed, Oct 2021*, (Canberra: ABS, 2021), Table 18; Parliamentary Library calculations

<sup>2</sup> ABS, *Labour force, Australia, Detailed, Oct 2021*, (Canberra: ABS, 2021), Table 1; Parliamentary Library calculations

<sup>3</sup> ABS, *Labour Force Status of Families, Australia, June 2021*, (Canberra: ABS, 2021) <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-status-families/latest-release>

based and/or government funded), rights to request flexible work arrangements and the expansion of protected attributes to include carer's responsibilities and breast feeding for example.

**... the impact of combining various types of work and care (including of children, the aged, those with disability) upon the well-being of workers, carers and those they care for**

8. The impact of combining various types of work and care (including of children, the aged, those with disability) upon the well-being of workers is considerable.
9. ANMF (Vic Branch) assists many members to achieve an appropriate balance between their work and personal life by supporting members to work through industrial and equal opportunity processes designed to support employees to achieve this (for example, flexible work arrangement requests). Engaging in these processes – at times over a lengthy and intensive period – is often stressful and in many cases leads to high degrees of anxiety and insecurity about employment. In some cases, the time, effort and uncertainty of these processes can result in ANMF (Vic Branch) members leaving their employment in full, leaving managerial positions in favour of more junior roles and/or compromising their security of work and converting to casual employment (not as a preferred outcome, but out of a sense of desperation).
10. In addition to impacts upon employment, broader impacts of the need to combine work and care responsibilities can include fatigue, anxiety and stress-related conditions.
11. The impact of combining various types of work and care (including of children, the aged, those with disability) upon the well-being of those for whom they care can also be significant. For example, those in casual, gig or even part-time employment are arguably less financially secure, especially at times of illness and injury to themselves or those they care for, which can be destabilising in some contexts and/or exacerbate existing stressors.

**... the adequacy of workplace laws in relation to work and care and proposals for reform**

12. ANMF (Vic Branch) considers that current workplace laws remain inadequate in supporting employees' need to balance work and care responsibilities.
13. Laws designed to support employees' combined work and care requirements would be better framed always as proactive entitlements (such as more traditional measures for example personal/carers leave). This would improve employee access to workplace measures such as flexibility and give primacy to these entitlements as a means to reframe workplace culture and gender expectations. Existing entitlement should be interpreted beneficially and with the view of supporting carer responsibilities, rather than giving primacy to paid employment.
14. As discussed, flexible work practices are often difficult to access for ANMF (Vic Branch) members, so ensuring that flexible work arrangements for the purposes of supporting carer responsibilities are appropriately accessible (both substantively and procedurally) and equally distributed between genders is pivotal to ensuring support for employees to engage in the responsibilities of work and care. One suggestion made by Libby Lyons, the Director of the Workplace Gender Equality Agency is employer targets for male workers with flexible work arrangements, citing research that men are twice as likely to have their flexible work arrangement requests declined than women.

15. Our members continue to confront significant barriers to access to flexible working arrangements. Disability, age and caring responsibilities are protected attributes under discrimination legislation, and “reasonable adjustments” to employment are obliged to be made by employers for people with a disability under the Victorian equal opportunity scheme. This is in stark contrast to an employee’s request for flexible work arrangements which can be refused at a much lower threshold for “genuine business grounds”. or in increasingly common circumstances, responded to by employers with the argument that the role, as nurses, midwives or paid carers requires them, individually to be available 24 hours a day, 7 days a week, and any inflexibility by the employee results in assertions of failing to meet the inherent requirements of the role.,
16. ANMF (Vic Branch) proposes the following areas for reform:
  - a. Improve access to carers leave for circumstances beyond “personal illness, injury or unexpected emergency” to enable employees to access leave for a broader range of caring activities such as placement of parents in residential aged care/respite and attendance at school for defined activities as two examples that would better balance carer responsibilities at both ends of the age spectrum;
  - b. Improving access to flexible work arrangements by lifting the bar for employer refusal to a higher threshold;
  - c. Aligning the flexible work arrangement entitlement with the reasonable adjustment requirement in the equal opportunity jurisdiction by requiring employers to make reasonable adjustments for carers;
  - d. Ensure that periods of parental leave (paid and unpaid) count as service for the accrual of long service leave (applicable to all employees, whether reliant on pre-reform award or state Acts);
  - e. A reduction of ordinary hours of full-time weekly work to 32 that is, the weekly full time salary would be divided by 32, instead of 38), to enable all employees a better opportunity to balance work with personal responsibilities (noting that the 38-hour week was set in consideration of a very different domestic context);
  - f. An increase of paid family and domestic violence leave to 20 paid days.

**... the adequacy of current work and care supports, systems, legislation and other relevant policies across Australian workplaces and society**

17. ANMF (Vic Branch) considers that work and care supports, systems, legislation and other relevant policies can be improved to better enable employees to balance work and care responsibilities.
18. ANMF (Vic Branch) proposes the following areas for reform:
  - a. Significant reform to childcare (including before and after-school care) arrangements which may include:
    - a. full fee relief (funded by government, employer or a combination of both),
    - b. requirement that organisations that employ people over a certain threshold number must ensure co-located childcare facilities – to ensure child care options which accommodate enterprise arrangements (such as hours of work/shift work), and/or

- c. policies to promote more accessible childcare, including outside “normal” business hours, such as on weekends, or in the evenings for older children requiring care/supervision;
  - d. a requirement that each primary school has both a pre-school child care program and an after-school care program;
- b. In addition to current unpaid leave entitlements, improved government-paid parental leave of at least 12 months with a maximum six months paid leave available to each parent (ensuring that each parent takes on an early role as primary care giver);
  - c. Mandatory superannuation requirements on all periods of parental leave (paid and unpaid);
  - d. Common right to disconnect unless otherwise provided for in industry awards/enterprise agreements.

**... consideration of the impact on work and care of different hours and conditions of work, job security, work flexibility and related workplace arrangements**

- 20. The majority of members of ANMF (Vic Branch) are required to undertake shift work. On the one hand, where shift work is arranged with regard to an employee’s particular individual circumstances, the employee can better balance care responsibilities. On the other, and in the main, employers require extreme flexibility from nurse, midwife and carer employees to be flexible and available across the 24/7 spectrum, without regard to the personal requirements of the individual employee. Having to accommodate such an extreme requirement for flexibility can make balancing care responsibilities very difficult.
- 21. The need to combine shift work (including the employer’s requirement for flexibility) and carers responsibilities exacerbates fatigue levels associated with both roles.
- 22. Working with employees to facilitate individual circumstances provides inordinate benefit with respect to balancing work and individual circumstances. For example, on a workplace level, ANMF member A reported that workers on permanent night shift were less likely to take sick leave than those on rotating shifts. Management reported that rostering permanent night shift was not possible for reason of impact on collegiality (lack of opportunity for permanent and rotating shiftworkers to get together) and provision of CPD, but ANMF (Vic Branch) is of the view that employers should proactively support workers who wish to work permanent nightshifts to support their personal responsibilities – these may include additional workplace measures.
- 23. Likewise, and in another example, ANMF member B can only access childcare on Monday and Tuesday between the hours of 7am – 6pm and is able to work Sundays in consideration of their partner’s roster, but is required to work across the 24/7 roster because the employer views it as inequitable that an employee has a pre-dominance of weekend shifts and/or day shifts.
- 24. Pervasive perceptions that shift work must be teamed with extreme employee flexibility significantly compromise the ability of nurses and carers to undertake both work and care responsibilities.

**... the impact and lessons arising from the COVID-19 crisis for Australia’s system of work and care**

25. The COVID-19 crisis highlighted the deficiencies in our existing policies, systems and workplace laws to ensure support for employees to undertake both work and care responsibilities.
26. Employers responded, typically, with less consideration of a person's non-work responsibilities, than they did before COVID. This, in turn, forced significant increases in casualisation of the workforce.
27. The majority of ANMF (Vic Branch) members could not work from home during the period. As front line health workers, many have been called upon to work as many hours as possible (including significant overtime).
28. Measures that support workforce participation such as accessible childcare (including after school care) and well regulated, accessible and safe home and residential aged care for older Australians is vital in this context to enable workforce participation. Where these measures are inadequate workplace entitlements need to be robust enough to allow employees the time to deal with these responsibilities in a way which does not compromise their employment.

**... consideration of gendered, regional and socio-economic differences in experience and in potential responses including for First Nations working carers, and potential workers**

29. The Australian Human Rights Commission notes that,

*For many Aboriginal and Torres Strait Islander peoples, responsibilities to family, community and culture are extremely important. Due to family obligations, Aboriginal and Torres Strait Islander peoples may have more of a role in caring for children and elderly family members. Care may include financial care, health care and general care. This means Aboriginal and Torres Strait Islander peoples may have more responsibility outside their immediate family.*

30. Victoria University's recent findings show that rural and regional areas are most likely to be "childcare deserts" with services absent or with too few places. Areas of low socioeconomic status also have less access to childcare, and the greatest where fees are higher.<sup>4</sup>
31. ANMF (Vic Branch) proposes the following areas for reform which may help to address these particular areas of need:
  - a. Amendment to the flexible work arrangements entitlement to ensure requests from ATSI staff members are considered in light of a Working with Aboriginal and Torres Strait Islander Peoples Cultural Competence and Awareness Policy (howsoever named), something which Curtin University's Indigenous Employment Index states is beneficial for recruitment and retention of Indigenous employees;
  - b. Provision of an amount of paid cultural and ceremonial leave, in addition to an unpaid component;
  - c. Provision of pre-school aged childcare arrangements and after-school care arrangements collocated with all primary schools to ensure adequate access regardless of location (in addition to implementation of other improvements noted above).

**... consideration of differences in experience of disabled people, workers who support them, and those who undertake informal caring roles**

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<sup>4</sup> <https://www.vu.edu.au/mitchell-institute/early-learning/childcare-deserts-oases-how-accessible-is-childcare-in-australia>

31. Employees with the responsibility of caring for a school-aged or younger child who is living with an illness or disability, may have significantly less flexibility to negotiate work arrangements that support them in undertaking their work and care responsibilities.

*For example, ANMF member M who has two young children is required to attend medical appointments with one of her children, while arranging care for her other child. This impacts on her availability when applying for flexible work arrangements and/or requires the care for her second child to be either facilitated by another carer (the other parent, grand parent or other) or be provided by paid childcare arrangements (if possible).*

32. ANMF proposes an expansion and clarification of the criteria of being responsible for the care of a child school aged or younger, to include episodic responsibility for that child; for example to cover a grandparent caring for a child one day a week who wishes to alter shift patterns accordingly – this would share the burden of care to a broader cohort of primary care giver.
33. For a proportion of members living with a disability, modifications required to enable them to successfully continue to work are not met positively by employers, leaving little alternative but to resign, or move to casual employment, or be redeployed into a position that does not utilise their professional skills to the fullest.

*For example, ANMF member A, takes medication at night with a soporific effect. This means they are unable to do nightshifts. For them to skip a dose of their medication of an evening to allow them to attend work poses a risk to their individual health and wellbeing and the health, wellbeing and safety of their patients. This member was continually denied a flexible work arrangement exempting them from nightshift by their employer.*

34. ANMF (Vic Branch) confirms that the proposed areas of reform listed above will assist disabled people, and workers who support them, but also propose the following area of reform:
  - a. Expand equal opportunity reasonable adjustment requirements on employers to include the right for reasonable adjustments for employees who are carers of disabled people (in addition to people with a disability).

**... consideration of the policies, practices and support services that have been most effective in supporting the combination of work and care in Australia, and overseas**

35. The suite of policy and legislative responses to supporting employees to undertake care and work responsibilities are positive, but more can be done to support employees. Factors that encourage recruitment, retention and maximise workforce participation of employees, wherever possible on their availability, is vital, particularly with respect the nursing and midwifery at this critical time in Australia's health and aged care systems.

**Conclusion**

36. A multi-pronged approach – and an investment mindset - is required to ensure employees are adequately supported to fulfil their work and carer responsibilities.
37. Factors of key importance to the ANMF are available and affordable childcare and the availability of work arrangements for workers of all genders and at all levels of employment which support the ability to undertake their care responsibilities adequately.