

Senate Standing Committees on Education and Employment

QUESTION ON NOTICE Date of hearing: 22 August 2022

Outcome: Workplace Relations

Department of Employment and Workplace Relations Question No. IQ22-000038

Senator Larissa Waters on 22 August 2022, Proof Hansard page 68

National Plan

Question

Senator WATERS: I've got a number of questions; hopefully, we can get through many of them. Can I start with asking whether or not the department has done any work with officers who are drafting the national plan to end violence against women to clarify support pathways for employees who request this leave.

Ms Wang: The department worked with the Department of Social Services in developing this bill, and we are also continuing to work with them on the implementation package. I might need to take on notice to see whether they can respond, in particular for the pathway you were talking about.

Mr Manning: The chair mentioned earlier, in relation to the last witnesses, a number of additional funding commitments, for example in relation to frontline workers. I'm also aware there's funding—I think it's a hundredmillion-dollar election commitment—in relation to transitional or emergency housing. So, certainly, being able to take this leave to get advice and to access whatever services are available, whether they be existing or those new or enhanced services, is completely consistent with it. We might have to take on notice to see whether or not there have been any more detailed discussions in the context of that revised national plan in relation to how they would work together.

Answer

Department of Social Services has provided the following response.

The Department of Social Services has consulted with relevant Australian Government agencies, including the Department of Employment and Workplace Relations, state and territory governments and a broad range of other stakeholders in developing the draft *National Plan to End Violence against Women and Children 2022-2032* (the National Plan).

The leave entitlement is part of a broader suite of services for people impacted by family and domestic violence and is particularly aligned with priority areas identified in the draft National Plan in relation to response and recovery.

The implementation of the entitlement will assist people from such circumstances so they can recover free from a life of violence.

The National Plan will be the national policy framework that describes how all Australians will work together towards ending violence against women and children over the next 10 years. The National Plan will be underpinned by two five-year action plans and a dedicated Aboriginal and Torres Strait Islander Action Plan which will detail how each of the priority focus areas will be translated into actions for implementation.

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Pathways

Question

Senator WATERS: Thank you. That's particularly the intersection that I'm interested in. Are you envisaging that pathways be listed so that employers can at least say to employees, 'Yes, you can have leave, and by the way here's the number you call, and there's this list of services'—

Mr Manning: Sorry to interrupt, but I might come back to my previous answer, as well, in the sense that there are existing resources, for example run by the Fair Work Ombudsman, which would have some of those linkages as well. There is an employer guide to the existing requirement, which we would envisage would be updated as part of that. We also, as a department, will be working with the Fair Work Ombudsman as well as employer and employee peaks in the lead-up to the commencement of the legislation to make sure that there is guidance and assistance that could do that. But we'll still take it on notice to see whether there's anything broader in the draft national plan in relation to this.

Ms Wang: Senator, now I understand what you meant about pathways. There are a number of existing programs that are administered by the DSS. One of them is 1800RESPECT and another one is a DV-alert, which provides training at a workplace—that training can then be tailored to the workplace. Part of the implementation package we're currently exploring is to enhance the Fair Work Commission's abilities to educate, promote and assist employers and employees, as well as to develop linkages between the Fair Work Ombudsman, and to allow the employers and employees to access the programs under the Department of Social Services.

Senator WATERS: That leads me to my question about training. Is what you've just said also the proposed additional training that might be undertaken for employers, or are you envisaging some additional, possibly expert-driven or practitioner-inputted training so that employers know what their obligation is and how they can support workers?

Ms Wang: I'll have to take this on notice. As I said, that program is administered by the Department of Social Services. I will take it on notice.

Senator WATERS: Thank you.

Mr Manning: There'd certainly be no reason for the Fair Work Ombudsman, for example, when working with employer and employee peaks in developing their assistance, to seek out the type of expertise you are talking about. One of the tools is a practical guide for employers to assist them, so there's no reason that should occur.

Senator WATERS: So the department's not envisaging anything that itself or another limb of the government will administer. Is it the primary obligation of the Fair Work Ombudsman to do that training for employers, then?

Mr Manning: Certainly, one of their functions is offering assistance and guidance. They do it already and will continue to do it. But it's not necessarily the case that that will be all that's available.

Ms Wang: That's right.

Senator WATERS: That's my question: what is going to be available and who is going to do it?

Ms Wang: Currently, DV-alert is already available. It is managed by the Department of Social Services and provides workplace trainings. The DSS could expand that program or establish new programs, but I can't speak on their behalf. I will take it on notice.

Answer

The Government is committed to supporting implementation of paid family and domestic violence leave. The Department of Employment and Workplace Relations and the Department of Social Services are working with stakeholders to develop the implementation plan.

The Fair Work Ombudsman (FWO) has the statutory role of advising employees and businesses about changes to pay, conditions and entitlements.

Following the introduction of unpaid family and domestic violence leave into the NES in December 2018, the FWO worked with key stakeholders to create tailored information on managing and taking unpaid family and domestic violence leave on its website.

This included an Employer Guide to unpaid family and domestic violence (the Guide), a checklist for managing family and domestic violence in the workplace and information about accessing support services. Since the provisions were introduced, the webpages have been viewed over 230,000 times, with the Guide being accessed over 40,000 times.

Currently, the Guide includes a range of information including suggested approaches to supporting employees experiencing family and domestic violence, developing a workplace response to family and domestic violence support and provides information on various referral services.

This information will be updated, and tools and resources will be developed by FWO to assist businesses and employees understand and apply new provisions in their workplaces.

Department of Social Services has provided the following response.

The Department of Social Services funds both training and information about family and domestic violence for all people in Australia, which includes access and support for both employers and employees.

DV-Alert offers nationally accredited training to help understand, identify and respond to family and domestic violence. The following public awareness workshops are available to the public for all adults (aged 18 and over) living in Australia:

- 2-hour DV-aware, offered virtually and face-to-face.
- 1-day DV-aware, offered at Lifeline centres and other locations across Australia.

The department also funds 1800RESPECT, Australia's national telephone and online counselling and support service for people affected by domestic, family and sexual violence, their family and friends and frontline staff. This free, national service operates 24/7 and provides information, referral and counselling. This service is available for all people in Australia, including employees affected by family and domestic violence and their employers.

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Funding Demand

Question

Senator WATERS: Thank you, I've got some clarity now. I appreciate that. In relation to funding demand, has anyone, whether DSS or your department, assessed the likely increase in demand for front-line service support from the provision of this paid leave? Flowing from that, if the answer is yes, have you then looked at the deficit of funding for front-line services? Notwithstanding the comments made by the chair and the small contributions that are election commitments, there is still a vast level of unmet need. Is that on anyone's radar to deal with in the context of this new leave provision?

Ms Wang: Certainly, it is on our radar. The DSS are collecting the administrative data from 1800RESPECT, and they also manage another program called the escaping violence payment. We've already put that on their radar as well to look at the administrative data and the trends, and provide better projections about the increased need for providing that support due to the increased awareness.

Senator WATERS: Could you perhaps take on notice to provide me more specifics about what you've asked them to do to quantify the level of unmet need, and who's then responsible for taking the action to meet that unmet need?

Answer

Noting the decision is a matter for the Government, as part of the implementation package of support measures to assist with rolling out paid family and domestic violence leave, the Department of Employment and Workplace Relations is exploring a post-implementation review including data collection.

Department of Social Services has provided the following response

The DSS has not been tasked with modelling of potential demand specific to this leave entitlement. Currently, people impacted by family and domestic violence are able to access supports, such as 1800RESPECT and the Escaping Violence Payment, regardless of whether they have also accessed leave from work as a result of experiencing violence.

DSS will continue to monitor demand data for 1800Respect and the Escaping Violence Payment, noting current administrative data collection does not include items specific to an individual's leave entitlement, employment status or employer status as eligibility is not dependent on these factors.

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New Obligation of Duty

Question

Senator WATERS: I think one of the other senators asked about positive duty and the interaction between the forthcoming positive duty on employers to provide a safe workplace, the need for employers to understand this new obligation and the duty on them to explain it to workers. Has the department been working with the Respect@Work Council about that positive duty in relation to this new leave provision?

Mr Manning: The department has certainly been working in relation to the positive duty. We would have to take it on notice and ask our work health and safety colleagues about whether there have been any specific conversations of the type you've raised, Senator.

Answer

The proposed positive duty, as an amendment to the *Sex Discrimination Act 1984*, is a matter for the Attorney-General's Department. The Respect@Work Taskforce within the Attorney-General's Department provides the Secretariat for the Respect@Work Council and is working closely with the Council and the Sex Discrimination Commissioner to implement the Respect@Work recommendations, including the positive duty. The Respect@Work team regularly consults with the Department of Employment and Workplace Relations, though to date has not specifically consulted on the positive duty in relation to paid family and domestic violence leave.

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Stakeholders

Question

Senator WATERS: Are you across a push from various stakeholders to extend out the coverage of this leave provision, and has the department provided any advice to the minister about that stakeholder request?

Ms Wang: I'm not aware of the stakeholder request, but I might take on notice to confirm that.

Answer

The Department of Employment and Workplace Relations is aware that some stakeholders have proposed extending the paid family and domestic violence leave entitlement to cover sexual violence occurring outside the family and domestic context to Government ministers.

The department has provided advice to the Government on the scope and application of legislation implementing the Government's election commitment to legislate the right to 10 days paid family and domestic violence leave as a National Employment Standard.