



24 September 2018

Committee Secretary
Senate Education and Employment Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary,

RE: FAIR WORK AMENDMENT (DOMESTIC AND FAMILY VIOLENCE LEAVE) BILL 2018

Victorian Trades Hall Council (VTHC) welcomes the opportunity to make a submission into the proposed Fair Work Amendment (Domestic and Family Violence Leave) Bill 2018.

VTHC was founded in 1856 and is the peak body for unions in Victoria. VTHC represents over 40 unions and more than 400,000 workers in Victoria. These workers are members of unions that reach into every industry in the state, both in the public and private sectors.

Since gaining the Eight Hour Day, VTHC has had a long history of fighting for and defending the rights of workers in Victoria. Over the last 160 years, VTHC and its affiliated unions have campaigned for and successfully won a range of important rights and entitlements for Victorian (and Australian) workers, including the minimum wage, penalty rates, occupational health and safety (OHS) provisions, maternity and parental leave, and family and domestic violence leave.

VTHC will continue to campaign tirelessly for the rights, entitlements and protections of workers in Victoria, no matter their employment status, gender, age, sexuality or workplace.

Family and domestic violence is one such issue that affects working people in Victoria. It is an abhorrent manifestation of gender inequality and gendered power dynamics that warrants an urgent, whole of society response. Family and domestic violence happens because of structural and social values that position women as lesser. Rates of family and domestic violence across Australia exceed crisis levels, and the lackluster response from the Federal Government is shameful.

Evidence overwhelmingly suggests victim/survivors of family and domestic violence are likely to be women,ⁱ or members of the LGBTQIA+ community.ⁱⁱ It has also been found that two-thirds of women subjected to family and domestic violence are in paid work.ⁱⁱⁱ

Women workers subjected to family and domestic violence deserve far reaching support. Paid leave for victim/survivors to recover and respond is key.

VTHC's submission is intended to support the submission of the Australian Council of Trade Unions (ACTU). For this reason, VTHC strongly urges that family

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and domestic violence leave be included in the national employment standards (NES) as paid leave.

VTHC seeks to reiterate the key points of the ACTU submission, and affirm the absolute view that the issue of family and domestic violence, and the current workplace response, is abject discrimination of women workers.

Women workers face injustices in the workplace that amounts to gendered violence. Gendered violence is any behaviour, action, system or structure that causes physical, sexual, psychological or economic harm to a worker because of their sex, gender, sexual orientation or because they do not adhere to dominant gender stereotypes or socially prescribed gender roles. It includes sexual harassment, threats and bullying, and extends to workplace structures and policies that fail to accommodate the experiences of women workers. Gendered violence is the impact of gendered norms on women workers, and feeds into a culture that normalises the inferior position of women.^{iv}

Any response to family and domestic violence that shifts the responsibility onto individual women is gendered violence. Ending gendered violence against women workers is a key priority for VTHC and affiliates. For this reason, the Victorian union movement has long been at the forefront of the campaign for a workplace response to family and domestic violence, and for paid family and domestic violence leave.

VTHC also emphasises the well documented link between financial independence and freedom for women subjected to family and domestic violence.

While VTHC is supportive of the inception of federal policy to make family and domestic violence leave universal as part of the NES, its limited application is deeply troubling. The entire point of family and domestic violence leave is to support vulnerable workers who are subjected to truly awful violence.

Victim/survivors of family and domestic violence are more likely than any other group to be in poverty.^v Further, women workers are more likely to be employed under Awards or in insecure and casual work that rely on the NES.^{vi} The need for victim/survivors to have genuine financial security while dealing with family and domestic violence cannot be understated.

There is much evidence to suggest a steady income is essential for women who are subjected to family and domestic violence to respond effectively. As such any form of family and domestic violence leave must be paid. Measures to introduce unpaid leave are merely a slap in the face to already extremely vulnerable women subjected to family and domestic violence.

In addition to supporting the ACTU's submission, VTHC seeks to make the following points; that firstly, the provision of paid leave be increased to 20 days, and secondly that the right to family and domestic violence leave be extended to any worker supporting a victim/survivor of family and domestic violence.

VTHC urges the Committee to amend proposed s 106A(1) to extend the provision of paid family and domestic leave to 20 days in a 12 month period.

Many factors impact a victim/survivor's capacity to work, including physical injury, perpetrators hiding or stealing car keys or transportation money, refusal of partners to show up or care for children, sleep deprivation, being forced out of home, death threats, and threats to harm children.

VTHC's model family and domestic violence leave clause provides for 20 days paid family and domestic violence leave. This model clause has been adopted by the Victorian State Government for public sector workers, and since its introduction in 2016, 0.27% of the workforce applied for the leave. The average amount of leave taken in this workforce was 7.2 days.^{vii}

Another study has shown leave take-up is irregular, often taken as one- or two-hour blocks or with no clear pattern. More than 10% of victim/survivors required more than two weeks to recover from family and domestic violence.^{viii}

Without diminishing the impact of family and domestic violence on anyone, VTHC asserts that NES and Award provisions for family and domestic violence leave are more likely to be drawn upon in responding to family and domestic violence, due to the insecure economic position that women workers employed under these instruments occupy, and the aforementioned inverse relationship between financial independence and prolonged exposure to family and domestic violence.

VTHC urges the Committee to recognise that for this reason, NES provisions for family and domestic violence leave must encompass all experiences of those subjected to family and domestic violence. Although few workers are likely to require 20 days, the quantum of leave in the NES must be seen as a safety net, and be large enough to account for all circumstances of vulnerable workers. For this reason, s 106A(1) must be amended to provide 20 days of paid leave.

20 days paid family and domestic violence leave must also be extended to those supporting someone subjected to family and domestic violence, by amending proposed s 106B.

Responding to family and domestic violence can often be complicated and time consuming, such as attending court or counselling, or planning for childcare. Due to the personal and often emotional nature of family and domestic violence, it is imperative that those subjected can draw on their support systems.

To deny workers subjected to family and domestic violence their support networks because there is no adequate leave, further serves to isolate victim/survivors. It is imperative that workers who support someone subjected to family and domestic violence can access adequate leave, and VTHC recommends family and domestic violence leave provisions be extended to those supporting victim/survivors.

This would also be in keeping with s 65(1A)(f), which provides the same entitlement to flexibility for workers subjected to family and domestic violence and for workers supporting them.

Conclusions

VTHC highlights that family and domestic violence leave can be the difference between life and death for some workers, and victim/survivors who are workers deserve the support of their workplaces. The current response is not good enough, and any proposal must encompass paid leave. Women deserve to be well supported, and any reluctance only serves to reinforce sexist power structures which perpetuate and accept a culture of violence against women.

20 days paid family and domestic violence leave for workers who are victim/survivors and their supporters must become universally available through the NES, and VTHC calls on the committee to extend proposed amendments to reflect this.

If you have any questions or would like further information, please do not hesitate to contact Danae Bosler

Thank you for your consideration.

Yours sincerely,

Wil Stracke
Assistant Secretary

WS: TC Ref: 48.76

Endnotes

ⁱ According to the ABS 15% of women experience Partner Violence compared to 6% of men, at 4906.0 Personal Safety, Australia, 2016 'Key Findings' <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Key%20Findings~1>

ⁱⁱ O'Halloran, K (2015) "Family Violence in an LGBTIQ Context", *Domestic Violence Research Centre Advocate*, Edition 2 <https://www.dvrcv.org.au/sites/default/files/Family-violence-in-an-LGBTIQ-context-Kate-OHalloran.pdf>

ⁱⁱⁱ The Australian Human Rights Commission (2011) "Fact Sheet: Domestic and Family Violence - a Workplace Issue, a Discrimination Issue"

^{iv} Stop Gendered Violence Report: Women's Rights at Work Report (2016) Victorian Trades Hall Council

^v Victorian Royal Commission into Family Violence Report, Volume IV, Chapter 21 'Financial Security', 93

^{vi} Lives on Hold: *Independent Inquiry Into Insecure Work* (2012) p 15, https://www.actu.org.au/media/349417/lives_on_hold.pdf

^{vii} Wahlquist, C (2018) "Victorian Public Servants Have Taken More Than 1,000 Days of Family Violence Leave", *The Guardian Australia* at <<https://www.theguardian.com/society/2018/feb/06/victorian-public-servants-have-taken-more-than-1000-days-of-family-violence-leave>>

^{viii} Breckenridge, J. et. al. (2015) "Implementation of Domestic Violence Clauses – An Employer's Perspective", prepared for the ACTU and the Gendered Violence Research Network at the University of New South Wales, p. 7