Working with Women Alliance

Inquiry into the operation and adequacy of the National Employment Standards

Submission to Standing Committee on Employment, Workplace Relations, Skills and Training

February 2026

Acknowledgment of Country

The Working with Women Alliance acknowledges the Traditional Custodians of the land on which we work and live.

We pay our respects to Aboriginal and Torres Strait Islander Elders past and present, and we value the enduring connection Aboriginal and Torres Strait Islander people have to this land.

We value Aboriginal and Torres Strait Islander histories, cultures, and knowledge.

About WwWA

The Working with Women Alliance (WwWA) represents two key portfolios: National Women's Safety (NWS) and National Women's Equality (NWE).

The WwWA connects the critical areas of gender-based violence prevention and the advancement of women's economic equality and leadership, bridging these important policy fields for greater impact.

We work with members and stakeholders, including the Australian Government, to provide expertise and advice on gender equality and women's safety.

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Executive Summary

The object of the Fair Work Act 2009 (the Act) is to provide a framework for cooperative and productive workplace relations that promote national economic prosperity and social inclusion of all Australians. The National Employment Standards (NES), under the Act, serve as minimum standards which cannot be displaced, even under awards and enterprise agreements.

As they stand, the NES do not provide a minimum standard for *all Australians*. The standards have several major weaknesses that are rooted in the instrument's lacking recognition of the gender divide on unpaid work responsibilities. These weaknesses are becoming more pronounced as caring responsibilities increase.

Australia's over-85 population is projected to double between 2017 by 2042,[1] with caring responsibilities continuing to increase. Already, between 2022 and 2024, there has been a rise in the provision of unpaid care for older people and children with disability.[2] There is also an increasing number of younger caregivers (25-44) as a result of people having children later in life, requiring their children to provide care earlier.[3]

The problem of increased demand on unpaid care work is an endemic and gendered one. On average, women do 32 hours of unpaid care work a week, and 9 more hours than their male counterparts. Women with a partner and child under 15 do 47 hours of unpaid care work a week, and women in the lowest quintile of household income and single mothers do 40 hours a week.[4] A higher proportion of young women, aged 25-44 care for a parent (63.6%) than for a partner or child. For men this age, this figure is 18.4%.[5]

Australia needs a policy strategy that supports unpaid caregivers and addresses gender equality whilst also promoting productivity and economic prosperity.

Recommendations

1. Expand carers leave eligibility to ‘primary support persons.’
2. Make 10 days of paid (non-cumulable) carers leave an entitlement separate from and in addition to personal leave.
3. Expand provisions for taking carers leave to ‘caring needs that cannot be managed other than during working hours’ in addition to existing provisions for illness, injury and emergency.
4. Review Maximum Weekly Hours against research into healthy work-life balance and maximising productivity.
5. Introduce minimum standards for part-time employees, including the ability to be paid for overtime, and a minimum floor secure working week.
6. Review Maximum Weekly Hours against research into healthy work-life balance and maximising productivity.
7. Introduce minimum standards for part-time employees, including the ability to be paid for overtime, and a minimum floor secure working week.
8. Harmonise Long Service Leave across states and territories to ensure that LSL accrual is an entitlement for employees taking government and employer-paid parental leave, and to ensure all states and territories have uniform portable LSL schemes.

Carers Leave

Expanding access to carers leave is key to reducing workplace and financial gender inequality and will provide gender-responsive protections for workers that acknowledge the disproportionate care burden on women.

More Leave for Carer-givers

Carers leave entitlements are grouped together with personal leave, providing full time employees 10 days of personal/carers leave. Employees can also access two days of unpaid carers leave per occasion if they exhaust paid leave. Because the annual allowance is grouped together, if leave is required for both purposes, it is inadequate.

Employment participation is directly impacted by caring responsibilities. The Australian Bureau of Statistics (ABS) reports that less than half (45.4%) of primary carers who do more than 40 hours of caring per week are employed, compared to 71.6% of those providing less than 20 hours of care work.[6]

Predominately, women take on caring responsibilities, with stagnation in paid employment where they engage in child rearing and again when caring for elderly family/community members. For many women, caring responsibilities threaten financial security, reducing superannuation savings, promotion opportunities, and even causing them to leave the paid workforce entirely.[7] This undermines talent pipelines, leadership diversity and organisational growth.

Research shows working-aged women (between 45-65) are overwhelmingly represented in caregiving for older people and people with disability.[8] One 2017 study estimates that half of Australians between 50 and 60 provide care for parents in regional Australia,[9] that figure has likely increased since then. As women's working lives have extended din the past 20-30 years,[10] the impacts of caring responsibilities on their lifetime financial security are compounding - not only on an individual basis, but for the workforce and economy more broadly.

In 2024, the ABS estimated the value of unpaid care at $308.4 billion, with 9.7 billion hours spent on unpaid care activities in the September quarter of 2024.[11] Women are sustaining unpaid care work, contributing $202.9 billion of the total estimate.[12]

The Productivity Commission, in 2023, considered extending unpaid carers leave, noting informal caregivers are a critical element of the aged care system... they supplement the care provided by aged care services and maintain critical social and community connections.[13]

Expanding access to carers leave will enable carers to remain in full time employment, whilst also supporting family and community members who require informal care. This will benefit Australia's economy and productivity by helping older people stay at home for longer, and recognising the necessity of unpaid, community care in uplifting the economy.

Expanding the Definition of Carer

The National Employment Standards stipulate that an employee may take carers leave (paid and unpaid) to care for *a member of the employee's immediate family or a member of the employee's household*."

This condition fails to acknowledge caring responsibilities outside of the i*mmediate family or household*, and discriminates against young people, single people, people experiencing family and domestic violence, or people who have negative relationships with their immediate family. This is particularly relevant for people in Aboriginal and/or Torres Strait Islander communities who often have caring responsibilities outside 'immediate' family.

Young people may be in serious but non-de facto relationships, and single people and victim survivors of family and domestic violence are especially likely to rely on a primary support person that is not an immediate family or household member.

Expanding Provisions for Taking Carers Leave

The current provisions that warrant carers leave are not comprehensively relevant to employees' caring responsibilities. Many informal caring duties fall outside of current provisions of carers leave – for injury, illness or emergency. These may include attending appointments, assisting with meal preparation, shopping and life administration. The Survey of Disability, Ageing and Caring lists care activities such as assistance with showering, dressing, and physical mobility. It also refers to 'non-core' care activities such as health care assistance, transportation, helping with administration and household jobs, property maintenance items, preparing meals, and providing emotional support.[14]

The NES does not recognise these diverse forms of care as warranting leave, and as such, forces caregivers to take personal or unpaid leave, and to make a choice between excessive total work hours (paid and unpaid) or reducing their paid work hours. As previously identified, this largely impacts women.

Recommendations

- Expand carers leave eligibility to 'primary support persons.'
- Make 10 days of paid (non-cumulable) carers leave an entitlement separate from and in addition to personal leave.
- Expand provisions for taking carers leave to 'caring needs that cannot be managed other than during working hours' in addition to existing provisions for illness, injury and emergency.

Maximum Weekly Hours

The NES provision on Maximum Weekly Hours defines an ordinary work week as 38 hours plus the *reasonable additional hours*. The notion of reasonable additional hours is ambiguous and counter to the concept of Maximum Weekly Hours (MWH). This may empower employers to require additional hours on employees irrespective of their interests or standard contracted hours. Federal case law on MWH has focused on what constitutes '*reasonable'* additional hours and how the maximum 38 hours should be calculated.[15]

In November 2025, 70% of Australian employees worked full-time, with a gender breakdown of 58.4% of female employees and 81.5% of male employees.[16] Australia has one of the highest average working hours in comparison to other countries.[17]

Nearly a quarter of full-time employees (22.1%) work 45 hours or more a week, with a gender breakdown of 26% for full time male employees and 16.6% for females.[18]

Research suggests that women have a lower 'tipping point' than men. At 34 hours per week, women begin to experience negative mental health impacts, where men's tipping point is 47 hours per week.[19] This trend is easily explained by women taking up a greater share of unpaid work.

Provisions that allow employees to engage in paid work beyond the 38 hours 'maximum' perpetuate the gender divide of unpaid work. The 2025 Work and Family Policy Round Table (the Roundtable) highlighted that the economic costs of men's long work hours on Australian women's earnings is high in comparison to other countries.[20] While wage inequality and pay rates are beyond the scope of this inquiry, it is worth noting that the dominant-income earner effect (which exacerbates and perpetuates the gender divide of unpaid work) is further amplified by men partaking in overtime. The Roundtable suggested that the NES Maximum Weekly Hours be reviewed to ensure that there are strong disincentives to work overtime.[21]

While overtime provisions are covered by awards and agreements, there is significant variation between female and male dominated sectors.[22] One in four female healthcare workers have reported unpaid overtime, compared to less than one in five males in the healthcare sector.[23] Strengthening MWH in the NES would protect award workers, particularly in feminised sectors from doing unpaid overtime.

Part-time and short part-time (less than 20 hours) hours are also impacted by maximum hour provisions. Women are more likely to take up short part time contracts (18.5%) than men (10%).[xxiii] In feminised sectors, employers are known to require additional hours of permanent part-time staff on the basis of demand-responsive work.[24] In sectors such as healthcare, it is common for hours beyond part-time contracts to be paid at ordinary rates and for rostering arrangements to be changed with little notice.[25] The Round Table suggested that protections for part-time and casual workers be increased through a minimum floor of secure weekly working hours and continuous daily hours of work.[26]

Strengthening of MWH in the NES will promote health and safety standards at work, work-life balance, and gender equality. It will also have flow-on effects for awards and agreements, ensuring employees in feminised and part-time work are better protected.

Recommendations

- Review Maximum Weekly Hours against research into healthy work-life balance and maximising productivity.
- Introduce minimum standards for part-time employees, including the ability to be paid for overtime, and a minimum floor secure working week.

Long Service Leave

Accrual During Parental Leave

While Long Service Leave entitlements vary by state and territory, currently all jurisdictions classify Government Parental Leave Payments as unpaid leave, meaning employees are not entitled to accrual of Long Service leave while on parental leave. In Tasmania, even employer paid parental leave does not entitle the employee to the accrual of Long Service Leave.

There are similar disparities in state-based portable Long Service Leave schemes, where Western Australia, Tasmania and the Northern Territory do not have portable leave schemes for community service workers – a female dominated sector. Conversely, all states have a portable Long Service Leave scheme for construction workers – a male dominated sector.

These state disparities predominately harm women – who traditionally, utilise and require more parental leave, and are concentrated in the community services sector, often characterised by lower wages, poor working conditions and high staff turnover.

Recommendations

- Harmonise Long Service Leave across states and territories to ensure that LSL accrual is an entitlement for employees taking government and employer-paid parental leave, and to ensure all states and territories have uniform portable LSL schemes.

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