



**Finance Sector Union Submission
Human Rights Commission
Supporting Working Parents: Pregnancy and
Return to Work National Review**

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Supporting Working Parents: Pregnancy and Return to Work National Review 2014 Comment from Finance Sector Union of Australia

1. Introduction

The Finance Sector Union (FSU) is the trade union representing employees working in the banking, finance and insurance sector. This industry consists of around 420,100 employees nationwide¹, with women making up a slight majority of the total number of staff within the sector (51%).

Approximately 68% of the membership of the FSU are women, and we work very closely with these members to address issues pertaining to women in the industry.

Some notable examples of the FSU's recent work to highlight and address the problems facing women in the industry include:

- Working with NAB on joint pay equity projects since 2006;
- The negotiation of a memorandum of understanding with BUPA on pay equity;
- Participation in the development of the new Australian standard for Gender inclusive job evaluation;
- Extension of paid parental leave schemes through both collective bargaining and legislative change;
- Removal of discriminatory provisions in performance based pay systems that disadvantage workers who take extended breaks for the paid workforce.

In addition, the FSU regularly supports members with issues relating to discrimination on the basis of gender as well as supporting members facing problems advancing their careers due to parental responsibilities.

The FSU supports the submission put forward by the Australian Council of Trade Unions (ACTU), and welcomes the opportunity to provide input into the review based on the experiences of our members. In the preparation of this submission we have used information sourced as follows:

1. Review of member cases where the union has provided assistance in these matters over the past 2 years (case notes);

¹ ABS, *Labour Force Australia: Detailed, Quarterly, Nov 2013*, (2013), <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6291.0.55.003Nov%202013?OpenDocument>
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2. Telephone surveys of members due to return to work following parental leave;
3. A written survey of members distributed to all members who have had their union fees waived while taking parental leave in the past 5 years conducted December 2013-January 2014 (member survey);
4. Pay equity audits completed in the industry.

If you would like further information on this submission, please contact Veronica Black, National Coordinator, Organising & Development by email - Veronica.Black@funion.org.au.

2. Background

The FSU welcomes the opportunity to make a submission to this inquiry into Pregnancy and Return to Work from parental leave as the FSU believes that the fair treatment workers is intrinsic to individual, workplace and societal well being.

Conversely, as this submission illustrates, the current prevalence of discrimination against pregnant workers and those returning to work from a period of parental leave:

- Impacts the emotional and financial well being of individual workers and their families;
- Reduces women's workforce participation² thereby creating productivity losses for employers and the economy as a whole;
- Reduces individuals' savings for retirement, which not only impacts individuals and their families but places additional pressure on publically funded pensions.

3. Prevalence, nature and consequences of discrimination in relation to pregnancy and return to work following parental leave

3.1 Pregnancy

Discrimination around pregnancy and return to work following parental leave is an area that is becoming more widely reported and acknowledged. The Fair Work Ombudsman (FWO) 2012-13 annual report reveals that pregnancy discrimination topped the list of discrimination complaints for the first time. The majority of complaints have previously related to physical or mental disability.

² Women's workforce participation rates in Australia of around 65% is 14% lower than men's participation rates as quoted in *Untapped opportunity. The role of women in unlocking Australia's productivity potential*. (July 2013)

In December 2013-January 2014, FSU conducted a survey of members who had their union fees waived while on parental leave in the previous 5 years. Responses indicated that 26% of respondents believed that they had been discriminated against as a result of their pregnancy.

The common kinds of treatment reported included:

- Pestering about future work plans (33.3%)
- Assumptions about future work plans (33%)
- Position made redundant (26.7%)
- Less opportunity for training or promotion (20%)
- Derogatory comments or invasions of privacy (7%)

Below are some examples from FSU members:

“While on maternity leave, the branch lost hours and because of this my position was made redundant and nobody else's hours or position were touched. I feel before I left on maternity leave this was their intention because they didn't fill my position. And it was easier to get rid of my position because nobody filled it.”

Member was working as a personal banker (PB). At 8 months pregnant she was told to go into a relief teller role (a lower grade position) as PBs in future would need to have certain training. She was not given the opportunity to do this training (run when she was 5 months pregnant). Outcome – member returned as a part time teller, involving a loss of both seniority and pay.

Lengthy dispute resolution processes are a disincentive to resolving matters relating to pregnancy discrimination, with many women choosing not to pursue matters as their pregnancies progress, and babies are born.

While there is legislation outlawing discrimination based on pregnancy, information from the Fair Work Ombudsman annual report and FSU case notes and member survey results indicate that it is a frequent occurrence for working women.

Recommendations:

1. Stronger legislative framework, with shared onus of proof;
2. Ensuring dispute resolution is fair, accessible, affordable and timely;
3. Education and awareness raising & training for middle management on the rights of pregnant women and their responsibilities to these employees.

3.2 Returning from work following parental leave

The major employers in the finance industry in Australia pride themselves on being employers of choice for women, and have many family friendly policies in place, designed to increase women's participation in the workforce.

When reviewing member cases from the previous 2 years, it is apparent that there is a considerable gap between written policies and the actual experiences of many of our members.

Of major concern to the FSU are:

1. Difficulty accessing flexible working arrangements to balance work and family;
2. The numbers of women who wish to continue to work following parental leave and yet end up resigning from their jobs or being retrenched;
3. The demotion and/or loss of promotional opportunities.

3.2.1 Difficulty accessing flexible working arrangements

The Fair Work Act provides the right for employees who are parents, or have responsibility for the care of a child who is school age or younger to request flexible working arrangements. Employers must seriously consider such requests but may refuse on reasonable business grounds.

In addition to this legislative right the FSU works to improve members' rights to flexible working arrangements by including a claim in enterprise bargaining negotiations with employers in the industry.

The FSU works with many members who have applied for flexible working arrangements that have not been accommodated by their employer. In most of these instances it is difficult to identify the reasonable business grounds on which the request has been refused.

A review of cases around requests for flexible working arrangements from the last 2 years indicates the following:

- 80% of requests made are for a reduction in the number of working hours (anything from a couple of hours per week less through to 3 days a week less)
- 2.5% want to work some of their hours from home;
- 27.5% want a change to their start of finish times or days they attend work³

It was not clear from all of the case notes the reason for the request for flexibility, but we were able to ascertain that the primary reason indicated for needing flexibility was:

- 57.5% of people were unable to access additional childcare;

³ (percentages add up to more than 100% as some people may have made a request that included more than one category above, e.g. wanted to reduce their hours overall and do some work from home)

- 5% were trying to manage work with an illness in the family;
- 10% wanted to spend more time with their young child.

While we do not have access to information about the outcomes in relation to requests for flexible working arrangements more broadly across the industry, we do know the outcomes for the people who have sought FSU assistance. It is of serious concern to the FSU that as many people resign their employment as are able to access flexibility. Outcomes of requests:

- 25% got the flexibility they had requested (though in one notable case this took over 2 years to negotiate, see case study below);
- 25% resigned from their job;
- 15% reached a compromise position;
- 17% returned to work full time;
- 7.5% took further time off work (either as extended parental leave or a career break);
- 2.5% were demoted to a more junior position in order to get part time hours.

Case study on request for flexibility

Our member was employed as a small business specialist. She had worked for a major bank for 17 years across a range of roles.

5 months prior to her anticipated return from parental leave, the member contacted her employer to initiate a conversation about returning to work part time. She was advised that she could return full time or could look for a part time role in retail.

The member continued discussions, including raising the option of job share. No arrangements were reached, and so her parental leave was extended. At this stage the member was given 3 options. 1. Return to her job full time; 2. Option to job share; 3. Apply for a job in retail banking (member earns \$71K retail jobs around \$38K).

Member was offered 4 positions, none of which were suitable. The nearest would have taken 1.5 hours on public transport each way, and the others ranged in distance from 84kms to 393kms each way. All were entry level positions on entry level pay.

On repeated request, the bank advertised a job share position. The position was advertised internally only, for one week in early January. Unsurprisingly, no suitable job share partner was identified.

Parental leave was extended again (to what would have been 2 years total). Member was under financial duress as she was paying for childcare with the expectation that she would be back at work. Bank re-advertised the job share the month prior to members anticipated return to work. Member advised that small business banking was unable to accommodate part time work.

The second year of parental leave came to its conclusion and the member went onto leave without pay as she continued to try to make arrangements for her return.

Eventually, following extensive involvement from the FSU and the Fair Work Commission, the member was offered her old role, working 3 days per week until her child commences school, when she will resume full time work.

The negotiations went on for almost 2 and a half years, and while the outcome for the member was good in the end, it is completely unreasonable for anyone to go through a process like this in order to return to work. Most of our members do not have the endurance or emotional or financial resources to pursue these matters to this degree.

The effort put into accommodating requests for part time work varies markedly across the industry. Some employers are doing this more effectively than others, (though obviously the examples that come to the attention of the FSU are where it isn't working well).

It appears that finance organisations are more likely to accommodate flexibility for people in entry level positions, and that a common response to people in more specialist roles when making a request is that it can't be accommodated in their area, and that they should attempt to find their own position within the organisation, that fits their days and hours ("try retail banking"). This leads to a loss of seniority and income for women who take up this option.

Recommendations:

1. Provide a right to part time work in the Fair Work Act;
2. Strengthen right to request provisions so that employers decision can be appealed;
3. Ensure process for appeal is affordable, timely and accessible;
4. Human Rights Commission to identify best practice examples of job share;
5. Resources committed to job share registers to assistance to find suitable job share partners;
6. Ensure employer is actively assisting in returning workers to work after parental leave, not making it the sole responsibility of the parent to find another position and apply through the usual processes.

3.2.2 Resignations from work

Many women working in the finance industry and who wish to maintain an employment relationship following the birth of a child are leaving employment due to an inability to find a suitable balance to enable them to balance their work and family responsibilities.

A review of recent cases indicates that the main reasons behind this are:

- An inability to access flexible working arrangements (see 3.2.1 above);
- Lack of childcare availability;
- Unreasonable work requirements;
- Unilateral employer changes to hours;
- Difficulty in obtaining extension to parental leave;
- Being targeted for redundancy;
- Demotion and/or loss of promotional opportunities.

3.2.2(a) Lack of childcare availability

The productivity commission is currently running an inquiry into Childcare and Early Childhood Learning, one of the key terms of reference is to examine “the contribution that access to affordable, high quality child care can make to increased participation in the workforce, particularly for women”. There has also been a lot of recent media around the ongoing difficulties with childcare once children reach school age, with shortages of afterschool care.

A lack of availability of high quality childcare is a significant barrier to the participation of women in the workforce within the finance industry. While rates of return to work following parental leave are at historic levels within the industry, the rate of women resigning in the first 12 months following parental leave are very high.

In the recent FSU member survey:

- 25% members indicated that problems with access to childcare were preventing them from working the number of hours they would prefer to work;
- 26.7% reported difficulty arranging childcare for return to work
- 25% experience difficulty when their normal childcare arrangements fall through.

In addition, in the review of recent member cases, a lack of childcare is identified as the primary reason that 57.5% of members have requested flexible working arrangements.

Members report high levels of dissatisfaction with their childcare arrangements, with many relying heavily on family to help to bridge the gaps.

Below are some comments about childcare from FSU members:

If it wasn't for my mum now retiring, cost and availability would be an issue

Almost half my wages goes on childcare

When I was working part time I wasn't working the same days each week and day care wasn't flexible to suit this so she would be in care for days I wasn't working and I would have to organise my parents for days I was working.

The current crisis in childcare availability is having a serious impact on the capacity of primary carers to return to work at the end of their legislated parental leave. This is the reason that the majority of our members request flexibility. The intention of most of these workers is to increase their hours as childcare becomes available or as their children commence school.

Recommendations

1. Increased funding for childcare so that good quality and affordable childcare is available;
2. Employer provided on-site childcare where practical;
3. More rights around flexible working arrangements/part time work.

3.2.2(b) Unreasonable work requirements

The finance sector has a culture of excessive unpaid overtime. Even for those members who are not seeking any change to their pre parental leave rostered hours, there are issues where members are not able to work this unpaid overtime anymore due to childcare commitments. This is leading to members who wish to return to their old positions being encouraged to resign.

Below are some examples from FSU members:

Member wished to return to her full time role, as the second in charge of a local bank branch. She advised that she would need to leave work on time each day in order to pick up her child from daycare. She was told that this was not possible as she would need to stay back every night to lock up. Outcome – extended parental leave for a further 12 months.

Member was a personal assistant. Following parental leave she advised she was ready to return to her full time position (working 9-5pm). Employer actively discouraged this by telling her she would feel guilty being away from her baby for long hours each day. Prior to taking parental leave member often worked unpaid overtime until 7pm, childcare restraints would prevent her from continuing this, but she had offered to come in and work from 7am each day to get the work completed. Employer stated that this didn't offer the degree of flexibility they wanted as they wanted someone available 24/7, before raising performance issues. The member had worked in roles supporting senior management for over 20 years and had never received a poor performance rating or had any performance issues raised. In fact, she had received glowing feedback immediately prior to going on parental leave. Outcome – member no longer working for bank, bank paid an amount in settlement.

A workplace culture that expects regular unpaid overtime to be worked or requires compulsory attendance at meetings/training sessions outside of rostered hours, inhibits the capacity of parents to participate in the workforce.

Recommendations:

1. Employers must ensure that job design and workloads ensure that jobs can be completed in ordinary rostered hours.
2. Australian Human Rights Commission to develop guidelines and training on family friendly rostering.

3.2.2(c) Unilateral employer changes to hours

A common issue identified for working parents in the finance industry relates to employer initiated changes to days/hours of work, where due consideration has not been given to the availability of childcare.

Certainty around hours of work is essential to enable parents to balance their work and family responsibilities. Of the disputes raised around employer initiated changes to hours of work

- 25% retained their existing hours
- 19% had their hours changed
- 12% had their hours reduced
- 6% resigned their employment;
- For the remainder, the results are unknown

Childcare arrangements are notoriously difficult to rearrange and special consideration should be given to the needs of employees with childcare needs before hours are changed.

Recommendations

1. Increased protection around changes to hours of work for parents with childcare responsibilities, (changes by agreement).

3.2.2(d) Difficulty in obtaining an extension to parental leave

The Fair Work Act provides the right for employees to request an extension of their parental leave by up to an additional 12 months. An employer can only refuse to extend the leave on reasonable business grounds.

The FSU has provided assistance to members where their application to extend parental leave has been refused with limited information provided on the business grounds for the refusal.

Given that arrangements would have been made to cover the work of the employee for the initial period of parental leave, one would think it would be possible to do so for a further period of time, particularly where appropriate notice has been given.

Below are a couple of examples where an extension of parental leave was denied.

Towards the end of her first year of parental leave, member had been diagnosed with cancer and her baby required a hernia operation. Member contacted her manager and requested an extension of parental leave of a further 12 months. This request was rejected (no operational reason provided). Manager suggested she should resign and use her long service leave to cover her expenses for a time. Member requested a shorter time extension of 6 months. This was also rejected. Outcome – management wouldn't extend or grant additional leave, employer agreed she could return part time but in a lower graded role.

Member is a part time sales consultant working 2 days per week. She had worked for her employer for 9 years. Following maternity leave, she requested a further 12 months leave, (member's baby is just four and a half months old and she also has a twelve month old baby). Her manager told her that she cannot extend her maternity leave as she already has too many other staff off. Member resigned.

Recommendations

1. Strengthen Fair Work Act provision to allow a right to a second year of parental leave; or
2. Right to appeal business grounds of employer.

3.2.2(e) Being targeted for redundancy, restructure

The FSU hears from many members who believe that they have been targeted for retrenchment or restructure while on parental leave.

In addition to anecdotal evidence, there is published data to back up this assertion.

Research published in August 2012 identified that 37% of women that left the National Australia Bank (NAB) in the 12 months following parental leave had been retrenched, compared to 8% of the NAB population in the Australian region as a whole⁴.

Below are some examples from FSU members:

⁴ Source: NAB/FSU, *NAB and FSU: working together for gender equity*, (2012)

Member was a full time branch manager. When she made contact regarding return to work, she was advised that they had accidentally permanently filled her position and she was offered a part time role as a personal banker (lower grade position, with a salary reduction of \$20K).

Member had been working for her employer for 8.5 years in a senior policy/relationship role. She had worked 3 days a week from home. When she notified of her desire to return from parental leave she was advised that her position no longer existed. She was not advised at the time that her position was redundant or given an opportunity to apply for new roles as part of the redeployment process. She felt she was pressured to accept a lower grade role and was then advised that she could no longer work from home. Member claimed constructive dismissal.

It appears that parental leave is sometimes used as an opportunity to restructure by stealth. Where there are genuine restructures taking place that impact on the role of employees who are on parental leave, those employees must be given the same opportunities as other employees to be consulted about any proposed changes and be afforded the opportunity for redeployment where this is available.

Recommendations

1. Protection from retrenchment for those on parental leave.
2. Genuine restructures to include full opportunity for participation in the process by staff on parental leave, including consultation and redeployment opportunities.

3.2.2(f) Demotion and/or loss of promotional opportunities

Workers in the finance industry have reported being demoted or facing a loss of promotional opportunities as a result of accessing their rights to take parental leave.

Below are some examples from FSU members:

Member was working in a bank branch as a teller, he had applied for a sales role and was told verbally by his manager that the role was his as he had been reaching 341% of his targets. He was later advised by his manager that he did not receive the role as he had applied to take 12 weeks parental leave.

Member wished to return to work 4 days per week. Her employer advised that they didn't think she would be able to cope and that she could return 3 days per week to a lower graded role.

Member wished to return part time, she was told this was not possible, so said she would return full time. Her employer then said her old job was no longer available as it had changed in her absence and she would no longer be capable of doing it. Eventually member returned to her old position full time. Was told that the job had changed significantly and that she doesn't have the skills for it and needs to get up to scratch. Member was advised to look for a lower level position if she can't cope.

Member was offered no support or training. Employer initiated performance management within a matter of weeks of her return. Member resigned.

There are still a great deal of assumptions made about the commitment to and capacity of workers with parenting responsibilities to do their jobs. Cultural change takes time, but can be assisted by legislative, policy and reporting requirements.

Recommendations:

1. Stronger legislative framework, for resolving discrimination around pregnancy and caring responsibilities with shared onus of proof;
2. ensure dispute resolution is accessible, affordable and timely;
3. Education on discrimination against people with parental responsibilities, targeting middle management.

3.2.3 Discrimination in pregnancy or return to work is a key contributor to Gender Pay Inequity

Despite the finance and insurance industry having a large population of women workers (around 51%), it has one of the largest gender pay gaps of any industry. It is currently sitting at 31.4%⁵, second only to healthcare and social assistance. This is not a result to be proud of. Despite many programs initiated there has been relatively little change in the gender pay gap for the finance industry over the past 20 years. While there are many contributing factors to the gender pay gap in the industry, having a child clearly has a profound negative effect on women's employment patterns and earnings, including:

- Reduced income / super payment for the period of leave associated with the birth;
- Non-accrual of leave and benefits for the period of leave associated with the birth;
- Extended periods of time out of the workforce;
- Greater likelihood of being terminated or retrenched;
- Return to work part-time, on lower wages, inferior position;
- Occupational segregation;
- Loss of seniority and access to training and career paths associated with job continuity;
- Reduced annual leave and/or long service leave accrual for periods of need at other stages of their working life; and
- Lower retirement savings.

⁵ Workplace Gender Equality Agency, Gender Pay Gap Statistics, August 2013
<http://www.wgea.gov.au/sites/default/files/2013-08-28-Gender-Pay-Gap%20FINAL.pdf>
Viewed 24/01/2014

4. Limitations or gaps in the legislative/policy framework. Key challenges.

4.1 Does the law adequately protect pregnant employees and parents returning to work after taking parental leave against discrimination?

A review of FSU member cases and the results of the December 2013 FSU member survey, indicates that the law does not adequately protect employees who are pregnant or returning from work following parental leave.

4.1.1 Anti-discrimination laws

The current system places all the emotional, time and financial responsibility on the complainant. The costs involved and burden of proof is too onerous for most people to take up these matters, particularly when the demands of a young family often means that emotional, time and financial resources are stretched to their limits already.

Because this system requires an individual to raise a matter, there is no capacity to address the systemic discrimination that is seen in a number of large employers.

Recommendations

1. Stronger legislative framework, with shared onus of proof;
2. Ensuring dispute resolution is fair, accessible, affordable and timely;
3. Process to address systemic discrimination.

4.1.2 Employment Law

The introduction of the right to request flexible working arrangements and the right to request an extension of parental leave under the NES, is designed to increase women's participation in the workforce and to assist workers to balance their work and family obligations.

While the introduction of these provisions has been a step in the right direction, there is a great deal of difficulty in accessing these rights. At present, provided that the employer has provided business grounds for their decision, there is a lack of capacity to appeal these grounds as unreasonable. Some employers put a lot of thought into how they can accommodate the needs of their employees, but others appear to have decided that it is all too hard and say they are unable to

accommodate it (mostly, it appears as they are accustomed to people working particular patterns of hours and are unable to conceptualise how they might do this differently).

There are some serious limitations under the NES, these include:

- No right to return to part time employment;
- No right to extension of parental leave;
- No right to appeal an employer's decision to refuse flexible working arrangements;
- No right to additional leave to attend pre natal appointments;
- No breastfeeding breaks and facilities.

Improvements in rights in these areas will assist with barriers to women's participation; however, while there are shortfalls in existing legislation, there are also barriers to accessing current rights. Major barriers to accessing existing rights include a lack of awareness of entitlements and the difficulty of the process to resolve matters.

Recommendations

1. Extend rights provided by the NES to include:
 - a. right to return to part time work;
 - b. right to extension of parental leave;
 - c. right to appeal an employer's decision, as well as
 - d. leave to attend pre natal appointments;
 - e. breaks and facilities for breastfeeding
2. Education on rights for pregnant women and people returning to work from parental leave for workers and managers.

5. Leading Practices & Strategies

The FSU works closely with employers in the industry to ensure there is a clear understanding of the importance of the right to accommodate the needs of pregnant women, and to support working parents. Where possible, we work to incorporate rights into enterprise agreements. There are marked differences in entitlements across the industry.

5.1 Supporting employees who are pregnant

5.1.1 Safe Work

The FSU works to expand the rights to transfer to a safe job or provide no safe job leave. An example of an agreement clause is clause 43.9 of the National Australia Bank Agreement 2011, which states:

- (a) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, if NAB deems it practicable, be transferred to a safe job.
- (b) If the transfer to a safe job is not practicable, the employee is entitled to take paid no safe job leave for such a period as is certified necessary by a registered medical practitioner.

This reflects the requirements of the FWA, and extends the right to paid leave where no safe job is identified to all pregnant employees, not only those with 12 months service.

They were willing to reduce my hours when I had medical problems, but only once I had a letter from my OB stating that they had too.

5.1.2. Prenatal appointments

A recent FSU Member survey indicated that 84% of survey respondents were able to access leave to attend their ante-natal appointments. While the capacity to use personal leave to attend pre natal appointments is very helpful, pregnant woman are as likely as anyone else to require this leave for their own illness or to care for a member of their family or household who requires their care. FSU attempts to negotiate a separate pre natal leave entitlement into agreements where possible. An example of such a clause is in the Members Equity Agreement 2013 clause 6.8 as follows:

6.8.1 the purpose of this clause is to enable an employee to attend routine medical appointments associated with an employee's pregnancy.

6.8.2 An employee who presents with a medical certificate from a doctor stating that she is pregnant will have access to a total of 38 hours paid pre natal leave per pregnancy.

The National Australia Bank Agreement 2011 has a similar clause (though the total hours provided are restricted to the employees number of ordinary working hours per week). The NAB agreement also provides 8 hours of paid leave per pregnancy for the partner of a pregnant woman to attend medical appointments with her, as well as clearly indicating the right to take leave for a part of the day rather than the entire day.

These clauses are not widespread across the finance industry at this stage. This right to access paid leave to attend prenatal appointments should not be restricted to those who have the bargaining power to negotiate it into an enterprise agreement, but should be extended to all employees.

Recommendations:

1. Entitlement to pre natal leave to attend appointments

5.2 On or returning from parental leave

5.2.1 Communication / information provision to employees on parental leave

Communication from the employer is vital during periods of parental leave to ensure that employees continue to feel connected to the workplace. FSU members value communication where it occurs.

A number of agreements in the industry contain specific clauses in relation to communication during parental leave, requiring consultation around any significant change at the workplace.

Comments from members on this issue included:

Managers do not communicate or contact you. It is always up to the person on leave to be proactive to be kept in the loop.

While on Maternity leave it feels like I don't even work for the bank. It's horrible.

I have found that being on mat leave that I have missed some events that have affected my work place and will affect me upon my return. I am talking about larger events (i.e. jobs being changed).

Recommendations

1. Requirement for employers to keep in contact with employees while on parental leave, particularly during times of significant workplace change.

5.2.2 Facilitation of and support for flexible working arrangements

As outlined in 3.2.1, there are considerable difficulties for members seeking flexible working arrangements, with only one in four able to access their preferred arrangements. This leads to 25% of employees resigning and a further 7.5% extending their period of parental leave.⁶

Any assistance that can be provided to workers wishing to access flexible working arrangements will allow employees to remain employed and prevent the drain of skilled and experienced staff leaving the industry, providing substantial benefits for employers.

Recommendations

1. Strengthen right to flexibility;
2. Provide right of appeal;
3. Employers to establish and properly maintain job share registers;
4. More assistance for employees in making suitable arrangements.

5.2.3 Certainty in rostering arrangements

Employers that are able to demonstrate an understanding for the needs of their employees when it comes to changes to rosters, greatly assist in the capacity for employees to balance work and family. Childcare arrangements are often not particularly flexible, so giving four weeks notice of a change to roster is often insufficient for people to make new arrangements.

A number of agreements in the industry deal with this issue, the Members Equity Agreement 2013 provides that "Should an employee or the employer require a change to an employee's normal work pattern, it should be by mutual agreement".

5.2.4 Provision of on-site childcare

The provision of on-site childcare where feasible is a great support to parents returning from parental leave. Key benefits that members have reported include:

- Only one place to go each day;
- No concerns about not making it on time to pick up your kids;
- Priority placement for employees;
- More flexible;
- Ability to salary sacrifice child care fees;
- Continuation of breastfeeding;
- Capacity to be there quickly in an emergency.

⁶ Based on the review of the cases assisted by FSU January 2012-Oct 2013

Recommendation:

1. Employers to provide facilities for on-site childcare where feasible.

5.2.5 Breastfeeding in the workplace

Workplaces that support breastfeeding mothers assist in balancing work and family, help with the transition to return to work and make a positive contribution to public health.

While the law protects breastfeeding mothers from discrimination, there are a wide range of ways that employers can actively support employees to continue breastfeeding including such things as:

- Work breaks (providing breaks to breastfeed or express);
- Space (ensuring there is an appropriate space for women to breastfeed or express);
- On-site childcare arrangements;
- Support from employer and co-workers;
- Flexible work options.

There are a few agreements in the finance industry that directly reference breastfeeding, including the NAB agreement which provides for arrangements for lactating mothers where possible.

Recommendations

1. Education for employers on how they can support breastfeeding women.

5.2.6 Training and support on return to work

Employers that spend time re-familiarising employees with the workplace and updating employees on any changes to the workplace on return to work assist greatly with the transition from parental leave. Of particular importance is the provision of training for any change in role.

Recommendations

1. Employers to implement a return to work process for parents returning from parental leave to assist in reintegration into the workplace.

5.2.7 Establishment of committees/workgroups to identify systemic discrimination and barriers to participation

There are many barriers to participation for women and parents with young children. One of the best ways that employers can take a pro-active approach to this is to establish committees/workgroups to identify possible examples of systemic discrimination within the workplace and barriers to participation.

FSU is working closely with a couple of employers in the industry, including the establishment of a Diversity and Inclusion working group made up of representatives from the organisation and FSU, including FSU delegates. This group has been looking at things like flexible work arrangements, carers' responsibilities & workforce participation. We have also been working closely with the National Australia Bank on pay equity since 2007.

Recommendations:

1. Establish joint working groups of unions and employers to identify discrimination and barriers to participation and work on ways of resolving issues that are identified.

6. Main Recommendations/Outcomes

The FSU would like to see the following recommendations/outcomes arising from this review.

6.1 Legislative change

- Stronger legislative framework, for resolving discrimination around pregnancy and caring responsibilities with shared onus of proof;
- ensure dispute resolution is accessible, affordable and timely;
- Extend rights provided under the Fair Work Act to include:
 - right to return to part time work;
 - right to extension of parental leave;
 - right to appeal an employer's decision;
 - leave to attend pre natal appointments;
 - breaks for breastfeeding;
 - Increased protection around changes to hours of work for parents with childcare responsibilities, (changes by agreement);
 - Protection from retrenchment for those on parental leave, genuine restructures to include full opportunity for participation in the process by staff on parental leave, including consultation and redeployment opportunities.

6.2 Policy and implementation

- Education on pregnancy discrimination and discrimination towards people with parental responsibilities, targeting middle management;
- Best practice examples of job share & resources committed to job share registers to assist to find suitable job share partners;
- Increased support for employees returning from parental leave to find suitable arrangements;

- Increased funding for childcare so that good quality and affordable childcare is available;
- Australian Human Rights Commission to develop guidelines and training on family friendly rostering arrangements.

7. Conclusion

The costs of discrimination around pregnancy and return to work from parental leave include:

- Negative impacts on the emotional and financial well being of individual workers and their families;
- Low levels of women's workforce participation thereby creating productivity losses for employers and the economy as a whole;
- Reductions in individuals' savings for retirement, which not only impacts individuals' and their families but places additional pressure on publically funded pensions.

The recommendations in this submission are based on an evidentiary base that spans more than 5 years and a substantial part of the Australian workforce and as such we believe should assist the Commission in addressing the pressing issue of pregnancy and return to work from parental leave discrimination.