



**Business
Chamber**
QUEENSLAND

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Response to:
Inquiry into carer leave
review**

March 2023

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Introduction

Business Chamber Queensland (formerly known as CCIQ) thanks the Productivity Commission ('the Commission') for the opportunity to comment on the Carer Leave issues Paper.

Business Chamber Queensland is Queensland's peak industry representative organisation for small and medium businesses. We represent over 448,000 Queensland small and medium businesses who employ 44% of Queenslanders working in the private sector. Business Chamber Queensland works with the regional and local chamber network across Queensland to develop and advocate for policies that are in the best interests of Queensland businesses, economy, and community. The Workplace Advisory Services team at Business Chamber Queensland consists of HR and IR specialists who regularly support businesses on industrial relations and workplace issues. As such, the team has gained unique insights into the technical and practical aspects of implementing workplace arrangements that enable informal carers.

Business Chamber Queensland acknowledges the important role carers play in our communities and submits this response to represent the experiences and interests of Queensland's business community.

Business Chamber Queensland's response to this Inquiry is in support of:

- The Australian Chamber of Commerce and Industry (ACCI) submission, which stressed that:
 - Inserting an unpaid carer's leave entitlement into the National Employment Standards (NES) would be detrimental to small businesses;
 - Carers of older people should be provided with tailored information about flexible working arrangements, as long as new obligations to provide this are not imposed on employers;
 - Small businesses and regular casual employees should be exempted from the provisional model of the entitlement (were one to be introduced).
- A need for further research into policy design and implications before moving into any implementation. To better understand the decision making process of carers and the impacts of introducing any new entitlements or changing definitions in the NES, more evidence and research are required. Business Chamber Queensland is willing to engage further with the Commission on this issue.

Key considerations

The topic of carer leave and the experience of small businesses in Queensland

In assessing the impacts of additional carer leave entitlements, any inherent vulnerabilities and broader implications need to be considered. Business Chamber Queensland agrees with the position submitted by ACCI in expressing their strong support for:

- the Productivity Commission's findings that there is no case for inserting an unpaid carer's leave entitlement into the NES,
- and that doing so would be detrimental to small businesses.

A holistic view of making any additional arrangement that works for both businesses and employees must involve understanding the working relationship context and threats of disruptions that businesses may face.

Business Chamber Queensland Workplace Advisory Services

Business Chamber Queensland's Workplace Advisory Services team supports members directly with technical and practical advice on workplace rights and entitlements, has recorded only a small number of enquiries related to informal carer duties for an aged or frail person. Since our previous submission in September 2022, our internal records have not reported any member enquiries seeking advice to respond to employees seeking time off work for providing care and support to an aged or frail person. Business Chamber Queensland's few experiences in assisting businesses with carer's leave enquiries suggest that:

- It is common for businesses to negotiate with their employees on the terms and conditions required for unpaid leave for caring responsibilities;
- Business Chamber Queensland Workplace Advisory Services team members regularly provide support for businesses addressing employees taking short periods of time off to care for family members. However, most of these interactions involve spouse of child, instead of an aged or frail person;
- Members who have received advice from Business Chamber Queensland's Workplace Advisory Services team have been able to utilise existing entitlements under the *Fair Work Act 2009* (Cth), such as paid carer's leave and flexible working arrangements, to support their carer needs.

Key constraints in business ability to accommodate informal carers

Any additional entitlements or changes of regulations add a new layer of costs for businesses.

Additional costs

A key vulnerability of small and medium businesses in accommodating informal carers is the additional costs brought upon business owners. While the proposed extension is an unpaid leave, this will still involve further management, administrative and opportunity costs for businesses. In contrast, SMEs often operate on a more agile and informal workforce structure, that may encourage workplace relations to be resolved through negotiations and open conversations.

Unique needs

Informal carers have a unique range of leave needs compared to a standard sick leave or parental leave. While some employees may require additional time to address their informal duties, some may need to make long term or permanent adjustments to their working arrangements, in the form of more flexible hours or working days, or remote working arrangements that meet their care needs. With the upcoming legislative changes to the flexible work provisions in the NES, it is likely that there will be an increase in this usage for all businesses.

There is no evidence additional unpaid leave entitlement would sufficiently address these needs and may further hinder employers and employees' ability to negotiate for a fair and balanced working arrangement.

Business Chamber Queensland's response to position paper

Response to Information request 1

Information request 1:

The Commission has put forward a provisional model for an entitlement to extended unpaid carer leave to care for an older person. We would like feedback on its features, and the costs and benefits of the provisional model. We are particularly interested in:

- *the durations of leave carers are most likely to want to access extended unpaid carer leave*
- *how costly short-term leave is to businesses, and whether shortening the minimum leave duration*
- *would increase these costs significantly*
- *the potential costs and benefits of taking carer leave as a reduction in working hours over an extended*
- *period, rather than as an absence from work*
- *whether there are ways to design the entitlement to avoid potential negative effects, including on the*
- *recruitment and career progression of carers.*

The design features of the Commission's provisional model of extended unpaid carer leave for carers of older people are:

- *unpaid leave for 3-12 months (with the employee to specify the duration at the outset) with access to*
- *another period of leave 12 months after the last use*
- *a notice period of 4 weeks*
- *available to employees with at least 12 months of continuous service*
- *applied to businesses of all sizes and to regular casual workers*
- *evidence requirements in line with other National Employment Standards.*

Business Chamber Queensland is broadly supportive of the design features put forward by the Commission outlined above. However, we have further considerations on the design features and the implementation of the policy.

Firstly, Business Chamber Queensland supports ACCI's position in developing and progressing the next course of action for this inquiry to focus on better supporting flexibility, not additional prescription or entitlements.

We raise that, while a notice period of 4 weeks is acceptable in many cases, due to the unforeseen nature involving informal carers, employers in general would need as much notice as possible.

Further, Business Chamber Queensland supports ACCI's position that small businesses and regular casual employees should be exempted from the provisional model, as this model can be onerous for both small business owners and casual employees of small businesses.

Response to Information request 2

Information request 2:

The Commission has made draft recommendations designed to improve support provided to informal carers of older people. We are seeking further information on:

- the expected effects on carers of upcoming changes to the flexible working arrangements provisions of the Fair Work Act 2009
- additional ways to support informal carers, beyond those discussed in this position paper.

Business Chamber Queensland believes the upcoming changes to the flexible working arrangements provisions of the *Fair Work Act 2009* will not have substantial impacts on support provided to informal carers of older people.

Response to draft recommendations

Draft recommendation 1: *Providing information about how to request flexible work to working carers. Especially:*

- *Developing fact sheets*
- *Routinely providing the fact sheets to carers at key point in time.*

Business Chamber Queensland expresses support for draft recommendation 1. Business Chamber Queensland believe that by providing further information .both carers and employers can make better arrangements to meet carers' needs. Previous data from Business Chamber Queensland suggested that informal carers are unaware of the suitable arrangements available for their situation.

Draft recommendation 2: *Reviewing definitions of care relationships in the National Employment Standards*

Business Chamber Queensland supports ACCI's position on expressing concerns about draft recommendation 2. The Productivity Commission's

recommendation for a review of the definition of 'carer' in NES are only justified if the changes sought are limited, moderate and justified by a proven need.

However, we would like to express our willingness to engage further on this issue.

Further Enquiries

Business Chamber Queensland would like to thank the Productivity Commission for the opportunity to make a submission to this Inquiry.

If there are any further enquiries in relation to the submission, please contact:

- Joanna Minchinton, General Manager – Workplace Relations, People & Culture.
- Cherie Josephson, Manager – Policy and Advocacy.