

Carer Leave Inquiry  
Productivity Commission  
Locked Bag 2, Collins Street East  
Melbourne VIC 8003

### Lodged online only

26 August 2022

Dear Productivity Commission

### Carer Leave Inquiry

Circle Green Community Legal (**Circle Green**) welcomes the opportunity to make a submission to the Productivity Commission (**the Commission**) on the Carer Leave Inquiry (**the Inquiry**).

### About Circle Green

Circle Green is a community legal centre in WA providing state-wide specialist legal services in the areas of workplace, tenancy, humanitarian, and family and domestic violence legal assistance services to the WA community. Within these specialist areas, Circle Green provides state-wide legal services including legal advice, casework, representation, duty lawyer services, outreach, community legal education, information, referrals, advocacy, and law reform. Our services are aimed at assisting people who face vulnerability or disadvantage in their access to justice. You can find more information about Circle Green's services on our website: <https://www.circlegreen.org.au/>.

### Workplace law services

Circle Green is the only community legal centre in WA which has a specialist workplace law practice that provides state-wide workplace law services to vulnerable and disadvantaged non-unionised WA workers. Our workplace law services include legal advice, casework, representation, and education on state and federal workplace law. This means Circle Green has expertise in providing legal assistance to vulnerable WA workers, including workers providing informal care to older people and others in the community.

### Submission

Circle Green is strongly supportive of amending the National Employment Standards (**NES**) under Part 2-2 of the *Fair Work Act 2009* (Cth) (**FW Act**) to provide for a minimum statutory entitlement to unpaid carer's leave in accordance with Recommendation 43 of the Royal Commission into Aged Care Quality and Safety.

Our comments on the Issues Paper are outlined in the table below.





<b>Issues Paper</b>	<b>Circle Green comments</b>
<b>Role of informal carers of older people</b>	<p>Circle Green notes the data contained in the Issues Paper that most primary informal carers of older people are women and not engaged in permanent fulltime employment. The experiences of Circle Green’s clients supports the premise that the profile of informal carers of people other than older people is similar to this.</p> <p>Circle Green notes the data indicating that most informal carers are unlikely to be in the labour force.</p> <p>Circle Green works with clients attempting to engage in the workforce whilst providing informal care. This cohort often faces intersectional workplace disadvantage factors such as: gender, race, CALD background, and insecure work.</p> <p>Flexible work provisions are vital to ensuring informal carers can engage in the workforce.</p>
<b>Carer employment entitlements</b>	<p>Clients of our service utilise existing leave and flexible work provisions in the NES to care for an older person and others with care needs.</p> <p>The lack of workplace engagement and secure employment for informal carers indicates existing carer employment entitlements are insufficient in supporting informal carers.</p> <p>Circle Green notes the existing right to request flexible working arrangements can be inadequate in application. This is because there is no mechanism to appeal an inappropriate or unreasonable refusal by an employer. In our experience, flexible work arrangements can have a substantial impact on an informal carer being able to remain in the workforce.</p>
<b>Design considerations</b>	<p>Circle Green strongly supports amending the NES to provide for a minimum statutory entitlement to unpaid carer’s leave.</p> <p>For a minimum statutory entitlement to unpaid carer’s leave, Circle Green would support a design model based on the current unpaid parental leave legislation. This would include the provision for 12 months of leave in the first instance, with the right to request up to a further 12 months where the refusal of any extension of unpaid carers leave could only be made on reasonable business grounds.</p> <p>Circle Green recommends a model extending carers unpaid leave entitlements to all employees, including casual employees, with continuous service of at least 12 months.</p>



	<p>Circle Green further recommends the extension of the model to include workers informally caring for people other than older people, such as people with a disability or people with temporary or terminal illness.</p> <p>In regard to the right to request flexible working arrangements, Circle Green recommends amending the FW Act to provide employees who are informal carers with an enforceable right to flexible working arrangements which are reasonable in the circumstances.</p>
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Thank you for taking the time to consider Circle Green's submission. If we can provide any further information, please contact Elisha Butt, Principal Lawyer, or Kendra Hagan, Senior Lawyer.

Yours sincerely

*Circle Green Community Legal*

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