

Submission to the Productivity Commission inquiry into carer's leave

This Submission is made by the Australian Services Union, Victorian and Tasmanian Branch to the Productivity Commission's inquiry into carers leave.

The Productivity Commission has been asked to examine the economic and social costs and benefits of providing an extended unpaid leave entitlement to informal carers of older Australians under the National Employment Standards.

Executive Summary

The Australian Services Union does not support greater reliance on informal (unpaid) care to (in the Productivity Commission's words) 'reduce the need for formal (paid) care'.¹

Increasing reliance on informal care will not solve the aged care crisis in Australia, and could undermine efforts to increase quality, professionalism, and sustainability in the sector. Creating an extended statutory entitlement to unpaid carers leave in the National Employment Standards could distract from policy measures that can make a difference in aged care.

While such a proposal may have superficial appeal, scratching the surface reveals a multitude of problems that could be more properly solved through different policy mechanisms, including those outlined by the union in our submission to the Aged Care Royal Commission.

The aged care sector needs to strengthen its workforce and the professional standing of the sector. This is critical to attracting and retaining professional staff, and thus achieving the service levels required to meet our caring needs. Suggesting that caring services can be performed interchangeably on a paid or unpaid basis fundamentally undermines the push for a valued, professional workforce.

Given caring responsibilities in Australia fall largely on the shoulders of women, creating greater expectations on unpaid carers will see more women taking time out of the paid workforce to care for their parents or family members, increase gender inequality, and exacerbate the pay equity and retirement savings gaps. Extending unpaid carers leave would be counterproductive to the broader policy goal of gender equality.

The union recognises the enormous effort that family members and other informal carers make in caring for their loved ones. They would be better supported through well-funded, high quality, professional aged care services, whose workers are valued and properly remunerated. This would allow informal care tasks to focus on support best done by a family member and allow care services to be provided by professional staff.

Additional support for informal carers should be provided through alternative means, such as increased access to flexible working arrangements or increased paid carers leave, better information resources, accessible respite care, and other similar care system and service improvements.

¹ Productivity Commission, (2022), *Carer Leave: issues paper*, p.1.

About the ASU

The ASU represents an estimated 6,000 in home aged and community care workers in local councils in Victoria. ASU Local Government membership in aged care services is largely comprised of direct care workers, but includes client liaison officers, assessment officers, team leaders and managers. The ASU also represents workers in not for profit aged and disability service providers in Victoria, who work in a range of roles including direct care work, case management, and management roles.

This submission has been informed by a consultation session with members of the ASU's in home aged and community care workforce in Victoria.

Background and context

The Productivity Commission was tasked with this inquiry by the then Treasurer in April 2022, responding in part to recommendations from the Aged Care Royal Commission.

At the time, it was disappointing to see the then Commonwealth Government choose to ignore many of the Royal Commission's recommendations and refuse to commit to a substantial reform and funding agenda that will deliver real change, improved services and better support systems. The absence of which has over many years forced more of the caring burden onto the shoulders of unpaid carers. In many ways the absence over time of a commitment from the Commonwealth Government to aged care reform has driven the need for this inquiry. A new Government has a new opportunity to reset this policy approach.

The ASU's principal exposure to the aged care industry is through our members' experience of working for Victorian Councils delivering personal and community care in the home.

Local Government Authorities (LGAs) provide an excellent model of strong governance and workforce leadership in the area of aged in home care services.

Almost without exception home care workers working for LGAs are qualified to a minimum of Certificate III, the majority are long standing employees and many have additional and higher levels of training.

ASU data indicates that over 70% of aged care workers in LGAs have more than ten years service with their employer. Staff retention, workforce competence and a strong emphasis on person centred and relationship-based care are strong characteristics of LGA based in home care.

A note on terminology - ASU members work in a wide range of occupations across local government and the not for profit sector. Here we use the generic term home carer throughout this submission to refer to workers who work in individual's homes and distinguish these workers from workers in Residential Aged care. The work they perform ranges from personal care, social support, wellness and reablement and domestic care. This title is generally interchangeable with the direct care worker, personal carer or community care workers.

Our submission to the Royal Commission spoke to the integral connection between the health, safety and wellbeing of the aged care workforce and the health safety and wellbeing of people using aged care services.

Our submissions to the Royal Commission also made a series of recommendations regarding the aged care workforce. In summary those recommendations supported an employment framework with

- Reasonable rates of pay and minimum hours of work
- Mandatory entry qualifications
- Structured face to face supervision and peer support
- An aged care worker registration and accreditation scheme, or at least a legislated aged care worker exclusion scheme
- Support from the Commonwealth Government to improve the management of aged care services

When are informal carers often called upon?

The Productivity Commission's consideration of the role of informal carers in the aged care system would benefit from a more detailed human-centred understanding of care pathways and needs. This should focus on the design of the care system our community wants to create from the current, post-Royal Commission reform agenda, rather than a reflection on the way the existing, underfunded and crisis-ridden system has operated to date.

The Commission is correct to state the care pathways are 'complex and diverse', as are the interactions between formal and informal care. Detailed mapping of typical pathways and these interactions will help the overall reform process understand what roles are best done by professionally trained home care staff, and what families should expect to receive by way of funded support in a post-reform system.

For the purposes of this submission, it might help to broadly conceptualise three types of events or time periods.

Firstly, the transitions into, and between care arrangements. This can happen gradually on an episodic basis, through different assessments, and increase over time, especially in an in-home setting. These are periods of change.

Secondly, the regularised care period. This could be in-home or in a residential setting, where patterns are regular and care needs are understood.

Thirdly, at end of life.

In thinking about the role of paid care services and unpaid support across this continuum, we believe the focus should be on ensuring adequate and properly funded home care services to deliver core needs and allow families to provide supplementary support through transitions and change periods without creating an expectation that they will deliver the care services needed.

Family members often want and need to be with their loved ones for those difficult transition periods – the first type outlined above. Adjusting to change can be difficult, and families can assist with settling older Australians into new care arrangements. However, it would be a misstep at a policy level to substitute generosity of spirit for the necessity of professional care. Families should have the support to take the time they need to help during transitions- through access to paid leave or flexible working arrangements - without being expected to shoulder the caring burden. Often

these transitions are shorter term or more episodic, and therefore may not require extended period of unpaid leave that a new statutory entitlement might envisage. Simply put, extended unpaid leave may not be needed for episodic transition periods, and paid leave would be preferable.

In the second period – the care period – when care needs have been established and service patterns have been settled, this is the time when families should expect that adequate home care services are being provided. If government has an expectation that families can ‘pick up the slack’ by taking extended unpaid leave it could undermine the reform goal of providing adequate home care services. Pressure should remain on government to properly fund home care services.

The third period, an end-of-life stage, can be very difficult for families and is a time where there should be access to adequate paid caring and bereavement leave. Adequately paid leave here is a compassionate response from a compassionate society.

This is a broad attempt to outline the different phases of home care, where informal carers participate in the care system.

Our considerations in the assessment of unpaid carers leave

There are four factors that the ASU has used to assess the relative merits of the proposal to include an extended unpaid leave entitlements to informal carers in the National Employment Standards:

- Devaluation of professional staff and standards of care
- The need to strengthen the aged care workforce
- The impact on gender equality
- How to better support unpaid carers

Each are outlined below.

Devaluation of professional staff and standards of care

The ASU is concerned about the undervaluation of care work generally and most particularly the undervaluation of home care work. It is worrying for hard-working home carers that the Commission believes that informal care can ‘reduce the need for formal (paid) care’ in Australia.² The ASU rejects that professional home care staff can be substituted by unpaid informal carers.

Home care workers are hardworking and skilled professionals. An ASU member survey conducted in 2019 as part of the submission process for the Royal Commission found that:

Almost without exception home care workers working for LGAs are qualified to a minimum of Certificate III, the majority are long standing employees and many have additional and higher levels of training. ASU data indicates that as over 70% of aged care workers in LGAs have more than ten years services with their employer.³

² Productivity Commission, (2022), *Carer Leave: issues paper*, p.1.

³ ASU Aged Care Royal Commission Survey 2019.

Staff retention, workforce competence and a strong emphasis on person centred and relationship-based care are strong characteristics of LGA based staff in home care. The work they perform ranges from personal care, social support, wellness and reablement and domestic care.

The aged care sector needs to strengthen its workforce and the professional standing of the sector. This is critical to attracting and retaining professional staff, and thus achieving the service levels required to meet our caring needs. Suggesting that caring services can be performed interchangeably on a paid or unpaid basis fundamentally undermines the push for a professional workforce.

Properly trained, securely employed, home care workers can also play an important role in observing and understanding the changing care needs of individuals, who may deteriorate over time. Professional staff can observe and alert family members or others responsible for assessing care needs when an individual needs additional help. Informal carers, who may be untrained or attending on an ad hoc basis, may be less able to do this type of activity.

The absence of professional home care staff can undermine the quality standards of care received. Policy changes in aged care must always be in the direction of higher quality standards, and bringing in systems such as entry qualifications, and worker registration and accreditation, can help lift the standards of home care received. Substituting this care with that done by informal, or untrained, professionals is heading reform in the opposite direction. Increasing a reliance on an informal workforce also introduces a heightened risk of exploitation and elder abuse.

It is also worth noting that the recent Senate Inquiry into Job Security found that quality of care has been compromised due to insecure working arrangements. Any measures that undermine job security will impact on the quality and standards of care.

The need to strengthen the aged care workforce

There is a clear and urgent need to build future workforce and provider capacity and improve the standards of response to the needs of the elderly community.

However, this needs to overcome the historic issues with the value placed on caring work. Home care *'it is a feminised sector with low wages, non-standard employment, low unionisation and, in home care, significant underemployment'*⁴. The task of strengthening the aged care workforce is urgent and pressing.

Strengthening the aged care workforce was the central feature of the union's submission to the Aged Care Royal Commission. We believe that a package of measures to strengthen the aged care workforce includes reasonable rates of pay and minimum hours of work; mandatory entry qualifications; structured face to face supervision and peer support; an aged care worker registration and accreditation scheme, or at least a legislated aged care worker exclusion scheme, and support from the Commonwealth Government to improve the management of aged care services.

⁴ Charlesworth, S (2012) 'Decent working conditions for care workers?: the intersections of employment regulation, the funding market and gender norms' Australian Journal of Labour Law, Vol.25(2), pp.107-127.

The ASU is concerned that focusing on extending statutory entitlements for unpaid leave will undermine the efforts to attract and retain professional staff into the home care workforce by suggesting that home care tasks can be done interchangeably between the paid and unpaid labour force. It sends the wrong message at the wrong time about the value of home care work.

The impact on gender equality

Most informal carers are women. It is clearly acknowledged by all available evidence that gender inequality in Australia exists and is a serious problem facing our society. The union strongly believes fixing gender inequality must be a policy priority for all governments.

The gender pay gap is 14.1% in May 2022.⁵

Women live longer than men and do so with less retirement savings. A 2020 report from the Workplace Gender Equality Agency Women's median superannuation account balances are 20.5% lower than those of men, with the median account balances of \$122,848 for women and \$154,453 for men.⁶

The ASU is concerned that creating extended provisions for unpaid carers leave in industrial law will exacerbate these inequalities in pay and retirement savings for Australian women.

The Australian Human Rights Commission's (AHRC) landmark 2009 report - *Accumulating poverty? Women's experiences of inequality over the lifecycle* put it very simply:

The gender gap exists because of women's patterns of work and care: their disproportionate responsibility for unpaid work and their lower pay relative to men.⁷

The AHRC goes on to say:

Women's decisions to take time out of paid work, to trade salary for flexibility or to work in a low paid job are often viewed as a matter of individual choice and responsibility. Yet, these choices are very often constrained by a range of external factors such as inflexible workplace structures, family dynamics, cultural pressures and gendered stereotypes. Rather than leave individuals to struggle with the consequences of constrained choices, this paper argues that removing workplace and other barriers to women's financial security is an important component of narrowing the gender gap in retirement savings.⁸

Given caring responsibilities in Australia fall largely on the shoulders of women, creating greater expectations on unpaid carers will see more women taking time out of the paid workforce to care for their parents or family members, increase gender inequality, and exacerbate the pay equity and retirement savings gaps. It would be counterproductive to the broader policy goal of gender equality.

⁵ ABS, May 2022, <https://www.abs.gov.au/statistics/people/people-and-communities/gender-indicators-australia/latest-release>

⁶ WGEA 2020, *Women's Economic Security in Retirement*, at https://www.wgea.gov.au/sites/default/files/documents/Women%27s_economic_security_in_retirement.pdf

⁷ AHRC (2009), *Accumulating poverty? Women's experiences of inequality over the lifecycle: An issues paper examining the gender gap in retirement savings*, September 2009, Australian Human Rights Commission. p.2

⁸ Ibid.

The persistence of gender inequality in Australia requires both pro-active actions to address, and also for government to not take action that would undermine the goals of gender equality, which this proposal could very well do.

Better support for unpaid carers

It is a credit to families and friends the millions of unpaid caring hours undertaken in Australia every year. Despite not being paid, this care comes at a cost.

The Royal Commission clearly identified that informal carers experience adverse health, wellbeing and financial outcomes. It is difficult to see how less financial support – by taking more unpaid leave – to an individual will reduce adverse outcomes, especially financial.

A statutory entitlement to expanded unpaid carers leave will create an expectation that the solution to our aged care crisis lies in greater reliance on family and friends. It does not. Fixing aged care needs a fundamental reform of the system, increased funding, and greater value of the professional workforce.

Informal carers deserve better support as part of a wholesale reform of the aged care system where proper care is adequately funded.

Informal carers in the paid workforce also deserve the recognition and support that greater access to paid leave could provide. Australian's workplace relations system has long recognised that workers should have access to paid leave when they are sick, or when a family member is sick and needs to be cared for. These principles still apply and should remain a core feature of our Australian workplace culture and law. Supporting family members in care should be part of this understood purpose to paid carers leave. If current provisions are inadequate, priority should be given to increasing access to paid rather than unpaid leave.

Fixing the right to request flexible work provisions in the Fair Work Act, such as the operation of s.65 would be a preferable solution to extending unpaid leave. During our recent discussion with ASU members working in home care it came across loud and clear that as workers who might need to care for a family member, being able to have better access to flexible working arrangements would make a real difference and continue to provide them with their own financial security, and the time they need to participate in their loved one's care. Better access to flexible working arrangements should also be part of the policy solution for unpaid carers.