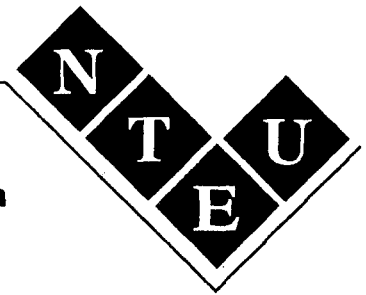


**National  
Tertiary  
Education  
Industry  
Union**



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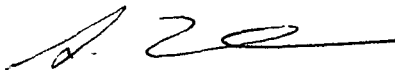
Committee Secretary  
Standing Committee on Family and Human Services  
House of Representatives  
Parliament House  
CANBERRA ACT 2600  
AUSTRALIA

Dear Secretary,

**Inquiry Into Balancing Work and Family**

Please find attached a submission from the National Tertiary Education Industry Union to the House of Representatives Inquiry into Balancing Work and Family.

Yours sincerely,



SARAH ROBERTS  
**National Industrial Officer**

Authorised by the National President of the NTEU

**House of Representatives Inquiry into Balancing Work and Family  
National Tertiary Education Industry Union Submission**

**8 April 2005**

**1. Introduction**

The National Tertiary Education Union (NTEU) represents around 27,000 staff employed in tertiary education in Australia. NTEU represents academic and general staff in the university sector, staff of student organisations, English Language Intensive Courses for Overseas Students (ELICOS) staff and staff working in university companies. It also represents an increasing number of staff working in private education providers, TAFE and adult education. NTEU's membership includes 49% women.

**2. Background**

NTEU welcomes the House of Representatives Inquiry into Balancing Work and Family. Over recent years, NTEU members have given a higher and higher priority to the goal of achieving a better balance between work and family. NTEU believes that this growing importance of life-work balance is due to increased demands on employees to work at higher intensity for longer hours, a trend which NTEU and many unions are seeking to reverse through enterprise bargaining and award claims.

In general, NTEU supports the submission made by the Australian Council of Trade Unions. However, as NTEU has made improving the balance between work and family a central goal of its work in the last two years by significantly increasing paid maternity leave to up to 36 weeks paid leave, it is appropriate to make some additional comments focussing on that area.

**3. Financial, career and social disincentives to starting families; assisting re-entry to the workforce after child rearing**

NTEU is of the view that there are significant financial and career-based disincentives to starting a family, particularly for women.

Currently, Australia's higher education institutions are still a long way off achieving gender pay equity: in 1997, for academic staff, men earned an average of \$439.31 per fortnight more than women.<sup>1</sup> There are a number of reasons for this gap, perhaps most significant of which is underrepresentation of women in senior positions, itself partly a result of women's interrupted employment patterns due to childbirth.

The proportion of senior academic staff who are women has grown only slowly, from 10% in 1992 to approximately 20% in 2004.<sup>2</sup> This remains well below what might be expected given women's share of the overall academic workforce (39%).

This is not because women are not committed to their careers: women in higher education are just as career-oriented and ambitious as men.<sup>3</sup> However, women are far more likely to be working part-time than men, and to have breaks in employment, with negative influences on their chances for promotion.<sup>4</sup>

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<sup>1</sup> Probert, Ewer and Whiting, *Gender Pay Equity in Australian Higher Education*, 1998, p 36

<sup>2</sup> DEST, *Staff 2004: Selected Higher Education Statistics*

<sup>3</sup> Probert, et al

<sup>4</sup> Probert, et al

It is well established that interruptions in employment such as those for childbirth and child raising reduce women's attachment to the labour force and are barriers to women's career progression.<sup>5</sup>

Women know that these barriers exist, and make their choices accordingly. If a woman in higher education wants to progress through the academy, be promoted and not be disadvantaged financially and career-wise, she knows the best thing to do is not to have children.

**Improved paid maternity leave** can help to ameliorate this problem. Good paid maternity leave can increase women's labour force attachment, encouraging women to return to work after leave and thereby reducing barriers to women's career progression.

Internationally, in countries where good paid parental leave is provided, employment activity rates post-birth are higher than in countries where paid parental leave is lower or minimal.<sup>6</sup> In the UK, the more generous the period and paid component of maternity leave, the more likely the woman is to return to work after leave.<sup>7</sup>

Improved paid maternity leave, of the kind achieved by the NTEU, actively encourages women to return to work after childbirth by providing paid time release for caring purposes upon the staff member's return.

Furthermore, improved paid maternity leave can directly reduce the impact that career breaks for maternity have on the gender pay equity gap, by ensuring that these breaks are paid.

For these reasons NTEU calls for an improved, nationally funded standard of paid maternity leave, equivalent to that paid in the United Kingdom (proposed by the current Government to increase to nine months by 2007 and a year's paid leave within 5 years) or, at the very least, of 14 weeks (the International Labour Organisation standard) paid at the level of average weekly earnings.

#### **4. The Award Safety Net**

Clearly, to the extent that Australian families have had support from a legal regime of entitlements enabling them to balance work and family, the major source of such entitlements has been the arbitrated decisions of the Australian Industrial Relations Commission and its predecessors.

Even the framework of entitlements currently bargained at the workplace level through certified agreements largely reflects, or is built upon, entitlements first established by the work of unions bringing cases to the Commission, and the various test case decisions which have resulted.

In this context, the Commonwealth Government's plans to further limit the range of entitlements which can be included in Awards is quite alarming. Although the finer details are not known, Minister Andrews has announced that the Government intends to re-introduce legislation based on the Workplace Relations Amendment (Award Simplification) Bill 2002.

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<sup>5</sup> HREOC, *Valuing Parenthood: Options for Paid Maternity Leave*, 2002, p 49

<sup>6</sup> Fagan and Rubery's study cited in ACIRRT, *Paid Work and Parenting: Charting a New Course for Australian Families*, 2001, p 49

<sup>7</sup> ACIRRT, *Work-family balance: international research on employee preferences*, Working Paper 79, 2002, p 31

Attached to this submission is a copy of a version of the parts of the Workplace Relations Act (the Act) which most directly deal with the matters which the Commission may include in Awards, revised in accordance with our understanding of the Government's intentions. This attachment shows the current Act, and indicates in tracked changes the amendments which are proposed.

If the Government's plans to further strip awards succeed, those entitlements of Australian employees which are aimed at helping them balance work and family commitments will be further undermined. This would occur both directly and indirectly.

It would occur directly by the operation of proposed sub-section 89A(3A), by removing the Commissions powers in a number of areas:

- **Transfers between locations**  
The effect of this on families is very obvious.
- **Recording of the hours employees work, or the times of their arrival or departure from work**  
This is obviously aimed at rendering ineffective the limitations on hours of work included in Awards. Numerous academic studies have indicated in a number of industries that many employees are working excessive and unpaid hours, contrary to existing award provisions. This has been identified as a major difficulty for employees in balancing work and family responsibility. The proof of these unfair and unlawful practices would be removed if Awards cannot have a provision requiring employers to ensure that employees record their working hours. However, this is presumably the point of the proposal.
- **Transfers from one type of employment to another; and prohibitions (directly or indirectly) on an employer employing employees in a particular type of employment.**  
These provisions would allow employees to be employed on a casual basis for an unlimited time with no right to accrue entitlements, no right to any certainty of hours or pay from week to week and virtually no job security at all.

Despite the very high level of casual and other insecure employment in Australia, there has at least been some restraint on the behaviour of employers because of the Commission's power to regulate "types of employment". For example, in higher education, the Commission has found that universities were abusing the use of fixed term contracts, with employees being put on rolling contracts to do continuing work for up to 27 years. As a result, the Commission set out the circumstances in which such contracts could legitimately be used.<sup>8</sup>

It goes without saying that the already excessive use of fixed term and casual employment obviously has a direct effect on decisions by employees as to whether or not to have children, and on their capacity to plan their career and their family. The removal of the capacity of the Commission to regulate the circumstances in which casual and fixed term employment may be used will only worsen the present situation.

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<sup>8</sup> Higher Education Contract of Employment Award 1998, AIRC Print Q0702 and Q0703

Indirectly, the legislation supported by the Government in 2002 would also have an adverse affect on current and future entitlements of employees and their ability to balance work and family. The attachment, in sub-section (3), reflects the Government's proposal that Awards must consist only of "basic minimum entitlements". This would have the effect of forcing the Commission to remove existing Award entitlements for paid maternity leave, which apply to many tens of thousands of federal award employees, including in higher education, schools and TAFE.

All of these proposed changes make a mockery of the object of the Act's existing goals, reflected in sub-section 3(i) of the attachment, of "assisting employees to balance their work and family responsibilities effectively through the development of mutually beneficial work practices with employers".

**Recommendations:**

- 1. That the Parliament implement a nationally funded standard of paid maternity leave, at least equivalent to that paid in the United Kingdom (proposed by the current Government to increase to nine months by 2007 and a year's paid leave within 5 years).**
- 2. That the Parliament restore the capacity of the Australian Industrial Relations Commission to make Awards on all matters arising in an industrial dispute, including "on any matter which, in the opinion of the Commission, would have the effect of assisting employees in balancing work and family responsibilities."**
- 3. That the Parliament not further restrict the matters on which the Commission may make Awards.**