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C/- Centre for Work + Life, University of South Australia, GPO 2471, ADELAIDE, SA 5001

29th February 2012

Ms Amanda Rishworth MP,
Chair,
Inquiry into the Fair Work Amendment (Better/Work/Life Balance Bill) 2012
House of Representatives Standing Committee on Education and Employment
Parliament of Australia

Dear Ms Rishworth,

Re: Inquiry into the Fair Work Amendment (Better Work/Life Balance) Bill 2012

The Work and Family Policy Roundtable (W+FP) is pleased to make a submission to the current Inquiry into the Fair Work Amendment (Better Work/Life Balance) Bill 2012 and commend Mr Adam Bandt MP on the introduction of this Bill.

Attached to this submission is the W+FP 2010 Election Benchmarks which brings together the expertise of its members. We draw your particular attention to Benchmark No. 2 in relation to the flexible working policies to better support carers. We believe that the current Right to Request Flexible Work Arrangements set out in the National Employment Standards (NES) needs to be both extended and strengthened. It is for this reason that we welcome the introduction of the *Fair Work Amendment (Better Work/Life Balance) Bill 2012*.

This submission briefly outlines two key concerns in relation to the *Fair Work Amendment (Better Work/Life Balance) Bill 2012* and provides our recommendations.

Yours sincerely,

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Professor Barbara Pocock, Dr Elizabeth Hill, A/Professor Sara Charlesworth,
(Co-convenors W+FP)



What is the Australian Work + Family Policy Roundtable?

The Roundtable is made up of researchers with expertise on work and family policy. Its goal is to propose, comment upon, collect and disseminate research to inform good evidence-based public policy in Australia.

The W+FP held its first meeting in 2004. Since then the W+FP has actively participated in public debate about work and family policy in Australia providing research-based submissions to relevant public inquiries, disseminating current research through publications for public commentary and through the media.

The W+FP is now made up of 26 academics from 12 universities:

- **Prof Marian Baird**, University of Sydney
 - **Prof Rowena Barrett**, Edith Cowan University
 - **Dr Wendy Boyd**, Southern Cross University
 - **Prof Deborah Brennan**, University of NSW
 - **Prof John Buchanan**, University of Sydney
 - **Prof Bettina Cass**, University of NSW
 - **A/Prof Sara Charlesworth**, University of South Australia (co-Convenor)
 - **Eva Cox**, University of Technology (UTS)
 - **A/Prof Lyn Craig**, University of New South Wales
 - **Dr Michele Ford**, University of Sydney
 - **Prof Suzanne Franzway**, University of South Australia
 - **Alex Heron**, University of Sydney
 - **Dr Elizabeth Hill**, University of Sydney (co-Convenor)
 - **Dr Jacquie Hutchison**, University of Western Australia
 - **A/Prof Therese Jefferson**, Curtin University
 - **Dr Deborah King**, Flinders University
 - **A/Prof Sarah Maddison**, University of NSW
 - **Dr Virginia Mappedzahama**, University of Sydney
 - **A/Prof Jill Murray**, La Trobe University
 - **Prof Barbara Pocock**, University of South Australia (co-Convenor)
 - **Prof Alison Preston**, Curtin University
 - **Dr Belinda Smith**, University of Sydney
 - **A/Prof Lyndall Strazdins**, Australian National University
 - **Prof Trish Todd**, University of Western Australia
 - **Prof Gillian Whitehouse**, University of Queensland
 - **Dr Brigid Van Wanrooy**, (formerly University of Sydney, now the Department for Business, Innovation and Skills, UK)
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Guiding Principles:

The W+FPR has 12 key guiding principles to inform its work and comment. We believe that in principle, work and family policy proposals should:

1. Recognise that good management of the work-life interface is a key characteristic of good labour law and social policy.
2. Adopt a life-cycle approach to facilitating good work-family interaction.
3. Support women and men to be workers as well as mothers, fathers and carers, and actively encourage fathers as carers.
4. Facilitate employee voice and influence over work arrangements.
5. Ensure sustainable workplaces and workers (e.g. through 'do-able', quality jobs and appropriate staffing levels).
6. Ensure gender equality, including pay equity.
7. Protect the well-being of children and other dependants.
8. Ensure predictable hours, earnings and job security.
9. Promote social justice and the fair distribution of social risk.
10. Treat individuals fairly, regardless of their household circumstances.
11. Ensure flexible working rights are practically available to all workers through effective regulation, education and enforcement.
12. Adopt policy and action based on rigorous, independent evidence.

See <http://www.familypolicyroundtable.com.au/> for details of the W+FPR and its activities.



SUBMISSION

The Work + Family Policy Roundtable (W+FP) welcomes the introduction of the *Fair Work Amendment (Better Work/Life Balance) Bill 2012*, and is pleased that under this Bill, the Right to Request Flexible Work Arrangements would be extended not only to carers, but to all employees.

We are very pleased that enforcement mechanisms would be strengthened and a remedy via the making of Fair Work Arrangements Orders would be introduced. Furthermore, Roundtable members support the proposed changes to ensure that such a request can only be rejected, at least in the case of carers, because of 'serious countervailing business reasons'. We also support ensuring that applications for such orders could be made not only by employees and unions acting on their behalf, but also by the Sex, Age and Disability Discrimination Commissioners.

However, the W+FP has two key concerns. The first concern is that the requirement to be eligible to exercise this right to request remains at 12 months service with the same employer. We note that in the draft National Employment Standards (NES), the requirement for 12 months service was not present, and was introduced in the final NES after submissions from employer groups. The W+FP argues that the main groups of workers who will require access to flexible arrangements are those re-entering the workforce after a period of caring for younger or older dependants; the very groups of workers who may not have 12 months service with their employer.

Our second concern is in relation to the demonstration of 'regular and systematic' employment for casuals. This requirement not only excludes casual workers whose hours of work may vary from week to week, but also excludes the increasing number of Australian workers who are employed by labour hire firms, including those who work alongside permanent employees, in full-time or part-time jobs with regular hours. The very nature of triangular contract arrangements between the employer, labour hire firm and the employee effectively precludes employees from accessing this right because employees are officially engaged by the labour hire firm, not the host employer.

The W+FP recommends that:

- The requirement for continuous service should be 6 months at the maximum;
- The ongoing nature of the employment, regardless of the changing pattern of hours of employment over the previous 12 months, or preferably 6 months, should be determinative in assessing a casual or labour hire employee's type and length of service;
- In relation to labour hire employees, it should be the length of employment with the host employer that is taken into account.