

# CCIQ RESPONSE TO: INQUIRY INTO CARER LEAVE REVIEW

August 2022

## Contents

Introduction .....	3
Key considerations .....	3
The topic of carer leave and the experience of small businesses in Queensland .....	3
CCIQ HR Services .....	3
Feedback from businesses and chamber stakeholders .....	4
Key constraints in business ability to accommodate informal carers .....	4
Adequacy of existing entitlements in NES .....	4
Lack of details in the current proposal .....	4
CCIQ's response to Inquiry .....	5
Further Enquiries .....	7
Appendix A: Queensland businesses response to consultations questions .....	8

## Introduction

The Chamber of Commerce and Industry Queensland (CCIQ) thanks the Productivity Commission ('PC') for the opportunity to comment on the Carer Leave issues Paper.

CCIQ 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. CCIQ 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 Employer Assistance team at CCIQ 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.

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

### **CCIQ's response to this Inquiry is in support of:**

- **The Australian Chamber of Commerce and Industry (ACCI) submission**, which stressed that the proposed inquiry into carer leave and informal carers should focus on better supporting flexibility for all parties, including employers, rather than additional prescription or blanket entitlements; and
- **A need for further research into policy design and implications before moving into any implementation.** More evidence and research are required to assess the introduction of any new entitlement to unpaid carer's leave.

## 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. 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.

### **CCIQ HR Services**

CCIQ's HR/IR Services team which 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. 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. CCIQ's experiences interacting with businesses on this topic suggest that:

- It is common for businesses to negotiate with their employees on the terms and conditions required for unpaid leave for caring responsibilities.
- CCIQ HR services 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 CCIQ's HR Services have been able to utilise existing entitlements under the Fair Work Act, such as paid carer's leave and flexible working arrangements, to support their carer needs.

#### Feedback from businesses and chamber stakeholders

Feedback from CCIQ's business and chamber stakeholders found that businesses and employees may **prefer different informal carer arrangements**. It is critical that any approach which offers additional flexibility for workers must also **build resilience and flexibility for businesses**. **Feedback from businesses suggested that the additional leave arrangement may create additional costs or present a rigid pathway, and may not be fit-for-purpose for all businesses.**

#### Key constraints in business ability to accommodate informal carers

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

Furthermore, **informal carers have a unique range of needs**, in contrast 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. As such, an additional unpaid leave entitlement will not address these needs and may further hinder employers and employees' ability to negotiate for a fair and balanced working arrangement.

#### Adequacy of existing entitlements in NES

Additionally, as stated by ACCI's submission, the existing entitlements in the National Employment Standards are adequate for unpaid leave needs. **CCIQ supports the following points from ACCI's submission:**

- (1) *for the performance of short-term informal caring responsibilities, the existing entitlements contained in the NES are adequate, including paid personal leave and unpaid carer's leave;*
- (2) *for the performance of long-term informal caring responsibilities, policies that improve flexibility in the workplace relations system are more effective solutions;*
- (3) *a new entitlement will be potentially both financially and administratively burdensome for businesses, likely exceeding any societal benefit that it produces; and*
- (4) *prior to contemplating any proposal for a new entitlement, there should be an examination on how the existing entitlements could be improved and how greater flexibility in the workplace relations system could be promoted, to address this issue*

#### Lack of details in the current proposal

Underpinning many of the issues related to the proposed additional unpaid leave allocation for informal carers is **the lack of detail of the entitlements**. Further detail is needed to reliably assess the potential impacts such additional entitlements may have on both employers and employees in needs.

## CCIQ's response to Inquiry

### *Flexibility in the workplace relations system*

CCIQ 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.

There are other areas that can be rectified or considered to better support informal carers, such as:

- Measures to improve flexibility in the workplace to enable workers to arrange their working hours
- Measures that may allow employees to bring forward access to long service leave for caring responsibilities
- Policies that increase knowledge and awareness of existing entitlements and how they can be used

CCIQ supports point (11) in ACCI's response to the inquiry:

- a. *the existing entitlements are adequate for undertaking short-term informal caring responsibilities.*
- c. *policies and legislative change that improve flexibility in the workplace relations system and empower employers and employees to secure flexibilities to meet employee caring responsibilities is a more effective solution for enabling employees to undertake longer-term informal caring responsibilities.*

**Recommendation: CCIQ supports ACCI's position that:**

**The existing entitlements are adequate for undertaking short-term informal caring responsibilities. Amending the National Employment Standards to include a new entitlement for informal carers of older people will be financially and administratively burdensome for businesses.**

### *Carer employment entitlements*

Feedback from Queensland businesses suggested that flexible working arrangements is the most common measure to accommodate informal carers' needs.

Informal carer duties are typically considered as a needs-based requirement, and rarely happened without discussion between workers and businesses.

CCIQ supports the following points in ACCI's response to the inquiry:

- 12. *When contemplating alternative policies to support informal carers of older people under, improving flexibility in the workplace relations system should be given due consideration.*
- 20. *A new entitlement should be a last resort, only pursued where necessary for 'ensuring a guaranteed safety net of fair, relevant and enforceable minimum terms and conditions'*

**Recommendation: CCIQ recommends that policy solutions to support informal carer of older people should focus on improving flexibility in the workplace instead of introducing new prescriptions or entitlements.**

### *Effects of an entitlement to extended unpaid carer leave*

It is difficult to assess any potential impacts given the current lack of information on the proposed additional entitlements. Most common impacts considered in feedback from Queensland businesses so far are reduction of working hours and additional administrative burdens to varying degrees.

CCIQ supports the following points in ACCI's response to the inquiry:

60. *The increased cost of labour indirectly caused by a new entitlement is one issue, but there are other potentially problematic aspects to a new entitlement for businesses. These include the unpredictability and unreliability of when this entitlement will be exercised. This can impose significant administrative burdens on businesses as they seek to fill vacated rosters and reduced workforces.*
62. *Any increase to the cost of labour or administration will disproportionately affect small businesses. This is the case for all entitlements. It is further compounded for those entitlements which are conferred on casual employees, which small businesses disproportionately employ.*

**Recommendation: CCIQ recommends that further research should be taken to assess the effects any additional informal carer leave entitlements may have on Australian businesses and the Australian economy.**

### *Design*

CCIQ proposes that some evidence should be required for any employee request for additional carer leave arrangements, similar to those required for sick or personal leave. Any arrangement needs to flexibly address the needs of both businesses and carers, as such, a rigid system of a set amount of days or time may not be fit for purpose.

This is further supported by feedback from small businesses in Queensland:

- *"Essential that the employee be required to give notice of return. The suggestion is an emergency Carers leave provision, and extended Carers leave condition."*
- *"The employee must provide supporting medical evidence"*

CCIQ supports the following point from ACCI's submission:

96. *Crucially, significant notice requirements should be necessary if the entitlement provides an extended period of leave. If emergency circumstances arise where early notice is not possible, then the existing entitlement already provides unpaid leave for emergency situations.*

**Recommendation: CCIQ recommends that, some form of evidence and extended notice period should be required for any additional carer leave arrangements.**

### *Alternatives policies and extensions*

CCIQ supports the following point from ACCI's submission:

*99. The informal care from older people differs from other caring responsibilities because there is a purported specific need to allow it to occur more easily. There has been a Royal Commission that made this recommendation. This has not occurred for other types of caring. It is critical that the PC stays focussed on this particular issue and does not make broader recommendations for entitlements that enable caring for other classes of people.*

**Recommendation: CCIQ recommends broader consultations with Australian businesses of all regions and industries before considerations of any alternative policies supporting informal carers.**

## Further Enquiries

CCIQ 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:

- Cherie Josephson, Policy and Advocacy Manager, at [cjosephson@cciq.com.au](mailto:cjosephson@cciq.com.au)
- Michael O'Brien, Senior Policy Advisor, at [mobrien@cciq.com.au](mailto:mobrien@cciq.com.au)

## Appendix A: Queensland businesses response to consultations questions

This section summarises feedback from Queensland businesses on the topic of informal carers and how businesses experience carer's leave requested or taken.

### Carer employment entitlement

*Q: The Productivity Commission seeks to understand the extent of which employees use existing leave and flexible work provisions in the NES to care for an older person:*

Feedback from businesses suggested that flexible working arrangements are the most popular form of arrangements for businesses, followed by unpaid leave and paid personal or sick leave.

### Effects of an entitlement to extended unpaid carer leave

*Q: How would the proposed unpaid carer leave affect employer costs, behaviour and hiring practice?*

The biggest concerns were:

- Potential additional costs on business, in terms of red tape, hours and additional admin tasks
- Concerns on uncertainty of the length of additional leave
- Additional leave may still not address all of employees' needs: carer leave may need to be a combination of flexible arrangements and extended leave at different times.

Some comments from businesses on the potential extension on carer leave included below:

- *"Often employees that require Carers leave do not know in advance, e.g. An employee's father is diagnosed with a terminal illness and needs to start intensive treatments immediately."*
- *"There can be uncertainty about the lengths of employees' Career leave—long waiting periods for NDIS to be approved or to obtain an aged care place. Continual extensions make it difficult for the employer."*
- *"It's not common now because there isn't a provision but every Australian knows an older family member so this leave has potential to impact every single employee or employer."*
- *"One team member is an informal carer and the hours of this person have had to be reduced in order to cater for her needs."*

*Q: Design considerations and their implications? We seek your views on how an entitlement to extended unpaid carer leave ought to be designed. Who should be eligible and why? What criteria should an employee need to meet and why? For example, tenure, relationship to the care recipient, and/or the nature of care required.*

Feedback from businesses suggested:

- Casual or gig workers should not be eligible for carer leave
- Some form of evidence should be required for carer leave, which could be formal or informal depending on the circumstances (i.e. medical certificates may be required for extended leave, but a declaration could be acceptable for short leave).
- A potential suitable extension could be considered to allow employees to take extended time off and come back with enough notice time provided (similar to a parental leave arrangement).

Some feedback from businesses below:

- *"Essential that the employee be required to give notice of return. The suggestion is an emergency Careers leave provision, and extended Careers leave condition."*
- *"The suggestion is an emergency Careers leave provision, and extended Careers leave condition."*
- *"The employee must provide supporting medical evidence"*