

WOMEN'S LEGAL CENTRE NEWSLETTER

June 09

The Rudd Government's proposed Paid Parental Leave Scheme

Some workplaces in Australia, including the Women's Legal Centre, voluntarily provide paid parental leave. However, Australia is one of only two OECD countries that do not have a comprehensive, government-regulated paid parental leave scheme. Soon after its 2007 election, the Rudd Government asked the Productivity Commission to undertake a national public inquiry into paid parental leave (PPL). The Commission released its final report in May this year.

Despite indications that the current financial climate could delay the introduction of a PPL scheme, the Rudd Government used the 2009-2010 budget to announce its intention to introduce such a scheme, commencing in January 2011.

The proposed PPL scheme largely mirrors the Productivity Commission's recommendations, providing the primary carer/s with 18 weeks of paid postnatal leave. This leave can be shared between the mother and her partner in the 12 months following the birth. Payments will be made at the adult minimum wage, currently \$543.78 per week. The leave will be paid through the individual's employer, and can be taken in conjunction with, or in addition to, employer-provided paid parental leave. All employees will be eligible, subject to an income and 'activity' test. Specifically, the primary carer must have been engaged in 330 hours of paid work for a 10-month period prior to the birth or adoption of the child.



The PPL scheme will replace other government payments such as the baby bonus and family tax benefits. However, families and carers not entitled to PPL will continue to receive these benefits.

The WLC applauds the Federal Government for making this landmark decision to support families to provide full-time care for their children during the crucial months of early development. Further, the PPL scheme is a significant step in promoting employment continuity for women and recognising the importance of women's participation in the workforce.

The financial costs of the PPL scheme are likely to be offset by long-term benefits to the economy. The Australia Institute argues that the scheme will enable young families, who generally have a low propensity to save, to spend more in order to meet their increasing needs. In the long run, the scheme will pay for itself as it has the ability to generate higher incomes through workforce retention, resulting in higher tax collection. The Institute estimates that a PPL scheme should generate approximately \$625 million more tax per annum, which will more than compensate for the \$450 million per annum that the government will have to spend on the scheme. For more information on the scheme, see: www.deewr.gov.au

Women Leaders in the Legal Profession Wed 13 May 2009

Every year the Women's Legal Centre (WLC) holds a lunchtime forum focused on Women and Justice as part of the Law Society's 'Law Week' celebrations. This year, the Centre decided to focus on the experiences of women who have become leaders in the ACT legal profession.

The forum was held at the Theo Notaras, Multicultural Centre and was well attended by over 100 participants from all sections of the community, including a large number of young women lawyers. The speakers for 2009 were Justice Hilary Penfold, the General President of the ACT Civil & Administrative Tribunal Linda Crebbin and ACT Magistrate Karen Fryar. The forum was facilitated by Professor Hilary Charlesworth.

Justice Penfold discussed some of the issues women face when working in the legal profession whilst trying to raise a family. Justice Penfold worked for a number of years at Parliament House in and was instrumental in establishing a much-needed childcare centre for the staff at Parliament House. Justice Penfold discussed the difficulties in establishing this service to make life more accommodating for men and women trying to balance work and raising a family.

Magistrate Fryar gave an interesting account of how she arrived at her current position in the ACT Magistrates Court. Her appointment was a milestone for women, as Magistrate Fryar was the first female magistrate in the ACT. Magistrate Fryar's story was one which many young people could identify with. Having no set plans on what she wanted to do with her life and initially thinking of becoming a teacher, Magistrate Fryar eventually found herself undertaking a law degree. Magistrate Fryar talked about the problems of discrimination which she encountered as a female solicitor. For example, Ms Fryar was once told that she could not be appointed to a more senior position within a private law firm, as she was female. This made her even more determined to advance in the legal Profession, and she went on to be appointed as the first female magistrate in the ACT.

Linda Crebbin was the final speaker and, as the newly appointed General President of the ACT Civil and Administrative Tribunal, it was great to hear about the work of the new tribunal. Ms Crebbin spoke of the many different legal positions she has held, including the triumphs and heartbreak of working for many years at ACT Legal Aid, a role which she was extremely passionate about. Ms Crebbin spoke about work-family life balance as an oxymoron, noting that this catch-phrase is often used to make women feel guilty about not being 'up to scratch' in either arena. For many women, their work is an integral part of their life. Trying to superficially divide time between 'work' and 'family' is not necessarily a useful distinction for those trying to care for their families whilst holding demanding positions in the legal profession. Ms Crebbin's talk was filled with amusing anecdotes of her struggle to maintain 'normality' at home whilst meeting the commitments of a demanding legal career.

The WLC is extremely grateful to Justice Penfold, Magistrate Fryar and Linda Crebbin for taking the time to speak to the ACT community. Their stories explored the unique experience of women in the justice system, the importance of women in leadership roles and the need for ongoing reform of the legal system to support both men and women who are balancing caring and family Responsibilities with careers in the legal profession.



Hilary Penfold



Linda Crebbin



Hilary Charlesworth



Karen Fryar

The National Human Rights Consultation

In 2008 the Federal Government established an independent committee, chaired by Father Frank Brennan AO, to conduct a nation-wide consultation on human rights issues in Australia. The key questions the committee is focusing on are:

- ◆ Which human rights (including
- ◆ corresponding responsibilities) should be protected and promoted?
- ◆ Are human rights currently sufficiently protected and promoted?
- ◆ How could Australia better protect and promote human rights?

The Consultation has been a fantastic opportunity for Women's Legal Services to provide information on human rights issues affecting women, including the right to live free from violence, the right to housing, health care and education, the right to work and equal pay and the right to paid maternity leave.

The deadline for public submissions was 15 June 2009, with the Committee receiving thousands of submissions from individuals and organisations around the country. Submissions including those by Women's Legal Services Australia and the Womenspeak Alliance are available at: www.humanrightsconsultation.gov.au

The Committee has been asked to report to Government by 31 August 2009. For more information, visit the official consultation website: www.humanrightsconsultation.gov.au

Human
Rights



Welcome Nena Hicks

The Centre would like to welcome Nena who is going to work at the Centre for the next ten months whilst Heidi Yates is on maternity leave.

Nena's most recent legal position was with the Office of the Public Trustee, where she specialised in Estate Planning. She has worked in private practice, in the Commonwealth Public Service and as an academic. Her international experience includes



sojourns in Vanuatu, Solomon Islands, Fiji and China. As an academic at the University of the South Pacific she successfully designed and delivered courses to students from twelve common law island nations encompassing parts of Melanesia, Micronesia and Polynesia. Nena's first experience with community advocacy was at Redfern Legal Centre as a student volunteer and she is excited to now have the opportunity to assist the ACT Women's Legal Centre.

Advice Line Details

Our free, confidential telephone advice service is open Monday to Friday 9:30 am - 12:00 noon.



For telephone advice ring:
 from Canberra: 6257 4499
 from outside Canberra: 1800 634 669

There is no drop-in service.

Advice at the Centre is by appointment only.

Appointments available Monday to Friday 9am to 5pm and Tuesday 5:30pm to 7pm.

Getting a handle on Discrimination Law (by Heidi Yates)

At the Standing Committee of Attorneys-General meeting in March 2008, Ministers put harmonisation of Commonwealth, State and Territory anti-discrimination laws on the priority list. The first stage of harmonisation will involve identifying non-legislative options to improve consumer access to discrimination complaint-handling procedures. The second and third stages will identify options for minor, then substantive, legislative and institutional reforms.

Although I am a junior practitioner who is relatively new to the field of anti-discrimination law, I am savvy enough to know that harmonisation in this area would be a good thing. I frequently muse over the matrix of ACT and federal anti-discrimination law, wondering which jurisdiction will offer my client the best prospects of success. Do the facts at hand lend themselves to a more convincing argument under the Federal *Sex Discrimination Act* than the *Discrimination Act* (ACT)? If so, should this consideration trump the fact that if conciliation fails, and my client has to take the matter further, she would rather represent herself in the local Discrimination Tribunal than in the Federal Court?

I sense that I am not the only one challenged by the intricacies of anti-discrimination law. Knowledge of this field is now essential, not just for lawyers practicing in the area, but for the growing pool of employers, managers and human resource staff tasked with providing their employees, students and customers with non-discriminatory workplaces, schools, shops and services (and the list goes on).



In this context, practitioners can thank The Federation Press for the wise guidance provided by these two (relatively new) discrimination texts. Whilst taking markedly different approaches to the subject, both texts offer the reader crucial practical and through-provoking assistance regarding this complex area of law:



DISCRIMINATION LAW AND PRACTICE

Chris Ronalds; The Federation Press, 3rd ed, 2008; 266 pp, \$59.95

Some of this book's most obvious strengths are the handy appendices hidden at the back. Two tables summarise the grounds and areas of discrimination and where they can be found (if at all) in each of the relevant federal, state and territory anti-discrimination Acts. A further table outlines the exceptions that may be argued in defence to a discrimination complaint, again by jurisdiction.

AUSTRALIAN ANTI-DISCRIMINATION LAW: TEXT, CASES AND MATERIALS

Neil Rees, Katherine Lindsay & Simon Rice; The Federation Press, 2008

This colourful orange text is the first comprehensive cases and materials book written in the field of Australian anti-discrimination law. It attempts the monumental task of covering anti-discrimination law at the State, Territory and Commonwealth levels, extracting and analysing the key cases and providing a comprehensive social and political history of the development of this area of law. An overwhelming strength of this text is that the authors don't shy away from a harsh critique of existing laws. All eleven chapters include cogent, detailed analyses of the strengths and frailties of different aspects of Australian anti-discrimination law.