**Supporting Working Parents: Pregnancy and Return to Work National Review**

Submissions from women and men who have experienced discrimination at work while pregnant, or while on or on return to work after taking parental leave

**Submission Number 274**

**Part C Submission Response**

In 2004 we moved to rural NSW and I began work within the health sector as a front line clinician, working 4 days a week. I was working at a small local hospital approximately 15 minutes from our property in our nearest town.

In 2005 I took 4 month maternity leave and returned to my position without prejudice or a change in hours.

Upon my return to work in 2005 we trialled a number of childcare arrangements and settled on a private ‘babysitter’ living 2 minutes from the hospital. She remains our babysitter some 8 years later, caring for our youngest child now.

In 2008, whilst 8 months pregnant I was successful in obtaining a promotion to a fulltime frontline management role, still within the local facility. As a family we were unable to sustain shift work due to my husband’s work, and had made a decision for me to move into management based on these circumstances.

I took 6 months maternity leave and returned to my new role at fulltime.

3 months after my return from maternity leave in 2008 I had a change of manager. My new manager was a young family man who constantly asked me when I thought I would reduce my work hours to allow me to stay home with my young family.

Over a 2 year period I fielded questions relating to my work choices from my manager on an almost monthly basis.

Due to the pressure we perceived from my manager my husband took any necessary family leave to care for sick children, although this was less than one week per year.

In 2011 I was again pregnant and negotiated closely with my manager regarding my planned maternity leave.

When proceeding on leave I planned to return to work fulltime after 7 months leave. During this leave I made conscious attempts to keep in touch with my workplace and manager. Mid way through the leave I had a formal meeting to keep in touch and at this time I asked if he felt that the position would be appropriate for a period of ‘job-sharing’. My manager indicated that this would be suitable and that his personal preference would be that I worked the equivalent of 3 days a week.

Over the following month I had discussions with my husband also and we decided that 18 months of work at reduced hours (3 days per week as requested by my manager) would be financially in our best interests. I told my manager informally that this would be the situation upon my return to work, and that the proposed date was not changing for my anticipated return.

At the mandated time (4 weeks prior to my return to work) I submitted the required paperwork and my manager asked me to attend a meeting to discuss my ‘plans’.

At this meeting I was told that I would not be returning to my substantive position as it was unsuited to a job-share arrangement and as a result I was being sent into our nearest regional town to work in another role. My manager said that he was aware that I would prefer to work locally so had found and had 8 hours of work approved for me at my local facility. I was told that my line of management would continue through the manager of my substantive role (who demonstrated significant biases against my work and family choices).

Both roles earmarked for me involved a demotion. The deployment was also a position requiring post-graduate qualifications that I did not hold, and 45 minutes travel to a different site. Due to my managerial experience I was aware of my right to paid travel time when deployed and a company vehicle, however I had to advocate very strongly before this right was acknowledged and I received paid travel time and a vehicle. After ‘winning’ this concession I was told it would only be for 12 weeks, unless I agreed to return to work fulltime or accept a demotion to clinical frontline shift work.

At 12 weeks I asked what would now happen and was told that a review had not been conducted, but I would be involved in it and then decisions would be made.

I had one informal conversation with my manager during this time and highlighted to him the occupational risk being taking that was not my decision or choice, being that I was driving in a company vehicle east into the sun on the morning and west into the sun in the afternoon, and was fatigued by the demands of my family and the role for which I was not qualified.

The review was completed at week 14, and I was informed that I had been consulted. I was told that since I was concerned about fatigue I could return to work fulltime to my substantive position, continue in the current situation, or return to a clinical shift work role in my local facility. As shift work was still not appropriate due to my husband’s work and fulltime work was not our choice we elected to retain the current arrangements and sought legal advice.

Policy clearly mandated that I be offered an equal or equivalent position. When I discussed this with my manager he referred me to the Human Resources officer who stated that I would have to find myself a suitable position with a manager who was happy to have me on a temporary basis, and that if I found such a position and manager then I should let my manager know and apply through normal channels, hoping there were no other suitable applicants. I did this three times, making genuine effort to promote myself throughout the job application process.

At this time we also wrote to the state and federal ministers for health, expressing our disappointment in the lack of adherence to policy.

Legal processes moved faster than political processes and with the advice of a barrister we commenced action against the organisation through the Anti-Discrimination Board (ADB) some 6 months after my return to work, and prior to any political response. One month after our application was submitted to the ADB we received a call from our facilitator there asking if I wished to proceed since I had been returned to my substantive role on a job-share basis. I informed the facilitator that I was still travelling 90 kilometres a day three days a week to fulfil the deployment I had been allocated and had not been informed that I was returning to my substantive role in any manner other than the regularly offered return to full time work, and that as such I would proceed with my claim. The facilitator said she had received a letter from the organisation stating that they saw no need to proceed with the ADB claim as I was working in my substantive role in a job-share basis. The facilitator emailed me this letter, and this was the first indication I had that the organisation was attempting to work with me and my family and the local facility.

I received a letter from the organisation 7 days later stating that I was to commence my substantive position in a job share arrangement in 2 months’ time.

Simultaneous with the ADB process I had been advised by the barrister and my solicitor that it would be in my best professional interests to apply for positions elsewhere that would remove me from contact with my manager as termination due to ‘poor performance’ would be his next step after all that was unfolding.

I did apply and was successful in obtaining 5 days a fortnight in a role within the organisation that was a promotion, but in a separate area. I commenced in this sector prior to the planned date for return to my substantive position. 2 weeks after I commenced my new position my previous manager also commenced a new position elsewhere within the organisation.

I chose to pursue the ADB claim due to the professional discrimination and treatment, and verbal discrimination that had been ongoing for 9 months.

At the ADB hearing the employer’s senior Human Resources officer stated that all conversations were not applicable as they were conversations and that not all my claims were in in email so were not valid either. They denied having told me to adhere to their Grievance Policy, which explicitly states that all reasonable attempts should be made to have conversations to discuss issues prior to formal escalation. They denied that I was placed in a role for which I was not qualified, until I presented them with evidence suggesting that the qualification was necessary, and then I was told that the mater would be addressed internally. When I questioned why I had been made to source my own equal and equivalent positions the Human Resource Manager denied that I would have ever been asked to do so. When my solicitor was able to direct them to the relevant email instructing me to do this they again said it would be dealt with internally. The organisation refused to discuss compensation for suffering and distress, indicating that I had transferred to a new position I had applied for without prejudice or support by my manager, and that therefore I was no longer in distress or suffering. The ADB process was terminated without outcome.

The position I held prior to going on maternity leave in 2011 is still being filled by a succession of temporary appointments, having had 6 incumbents in the previous 2 years. The only reason I was ever given for not being permitted to job-share was that the workplace required consistency of manager! My manager’s role has also remained vacant with a temporary replacement for 12 months now.

Since my action in the ADB I have seen several advertisements for roles similar to that which began this action, and they have been advertised as job-share maternity leave so I have reason to hope that my actions and associated expense through the ADB process have had a good impact upon the organisation and to the benefit of unknown peers.

SO: What measures would have helped me and my family respond to the challenges we faced over the last 5 years, but particularly the last 2?

The organisation had the capacity to work with me to achieve mutual requirements prior to my third pregnancy. Thereafter my line manager was not held accountable for on-compliance with corporate policy, despite efforts by myself and another manager on my behalf. This was a state government organisation that prides itself on its Carers Policy and yet couldn’t meet the needs of a population of employees that far exceeds the Carers population within its employees.

If the workplace (the overarching organisation) had enforced their policies and strived to provide equality and not just the rhetorical policy then the challenges would not have required the actions and fight we undertook.

The very values of the organisation contain the word ‘respect’ as one of its 4 key components, and has a cultural change platform based on ‘excellence’.

My husband and I chose to fight the fight that we did because we knew that many other rural women do not have the financial resources to act and pressure as we did; and because we are the parents of two daughters. I work in an organisation that has a predominantly female employee base, and has done for at least 2 generations before mine. The previous generations have fought hard for the rights and opportunities of the working women of my generation. I expect society to treat my daughters better than I was treated. We (as parents of two daughters and a son) expect society to demonstrate greater genuine respect for future women as they balance their family developments with their other choices in life including honouring the choices they made before they ever even thought about their own families. We hope that our children look at the fight we went through and feel proud of their father’s support and my professional efforts (and at 7 and 5 both daughters did ask questions and have age appropriate explanations of what was happening). They understand that we were unable to fight further due to the financial and emotional strain of the situation.

We would do it all again in the name of our daughters’ future if we had to, to say nothing of the lesson my son’s early childhood will teach him about women once he is old enough to understand.

I also agree that organisations that are genuine in their efforts should have an advocate / source of support independent of HR because at the end of the day HR is there as a support service for the most senior manager in the issue, not the employee (even if the employee is also in the management sector of the organisation).

I believe that women need to speak out and support each other, and that organisations should be held accountable for the imbalance between the politically correct rhetoric and the reality of their efforts.