

Submission to the Australian Human Rights Commission National Review  
**Supporting Working Parents: Pregnancy and Return to Work**

**From 'Working Person' to 'Working Parent':**  
*Supporting the transition from a workplace perspective*

Sarah Cotton, Melissa Gaddie and Justine Alter

31<sup>st</sup> January, 2013

**Queries related to this submission can be directed to:**

**Contact:** Dr Sarah Cotton (Co-Director)

**Organisation:** Transitioning Well

**M:** 1300 824 808

**E:** [sarah@transitioningwell.com.au](mailto:sarah@transitioningwell.com.au)

**W:** [www.transitioningwell.com.au](http://www.transitioningwell.com.au)

**Contact:** Ms Melissa Gaddie (Senior Associate)

**Organisation:** HR Legal

**P:** 1300 HRLegal

**E:** [MGaddie@hrlegal.com.au](mailto:MGaddie@hrlegal.com.au)

**W:** [www.hrlegal.com.au](http://www.hrlegal.com.au)

© Transitioning Well™ and HR Legal (2014)

Notes: No part of this submission may be reproduced for any purpose without the prior permission of the Transitioning Well and HR Legal; and the views in this report reflect the authors and do not reflect the views of the Partnership of HR/CIE Legal.

# Table of Contents

---

	Page
<b>1. Introduction</b>	3
<b>2. About Us</b>	4
<b>3. Key Themes</b>	4
3.1 Discrimination Trends: Prevalence – Nature – Consequences	4
3.2 Practical Challenges of Supporting Working Parents	9
3.3 Addressing the Trends and Challenges	11
3.3.1 Legislation and Policy	11
3.3.2 Leading Practices	13
<b>4. Review Recommendations</b>	18
<b>5. Conclusion</b>	20
<b>6. Key Partners</b>	20



# 1. Introduction

---

Navigating the transition from ‘working person’ to ‘working parent’ has largely been an employee’s responsibility. Yet, from a workplace perspective, evidence suggests that much can be done to support the transition. While the introduction of Paid Parental Leave and the ‘right to request’ flexible working arrangements have been important steps forward in Australia, there is opportunity to build upon this solid foundation. Increases in discrimination complaints, high levels of perinatal ill-health, and lost productivity due to factors such as fatigue and disengagement, give testament to the need to move beyond good *policy* to consider good *practice* in supporting working parents.

It is for this reason that in 2011 Transitioning Well (TW)<sup>™</sup> teamed up with HR Legal (see Section 2) to support workplaces in addressing the challenges surrounding working parenthood. While continuing to operate as two independent organisations, this collaborative and multidisciplinary approach has enabled us to provide a unique and practical service from both a legal and psychosocial perspective (i.e., policy *and* practice).

In line with our work in this emerging area, the authors welcome the opportunity to write a joint submission in response to the ‘Supporting Working Parents: Pregnancy and Return to Work National Review’.

For ease of reading, this submission addresses the questions outlined in the [Guiding Questions for Organisations](#) and [Issues Paper 2013](#) by summarising them into the following key headings:

1. Discrimination Trends;
2. Practical Challenges of Supporting Working Parents; and
3. Addressing the Trends and Challenges.

As requested, this submission focuses particular attention upon the **nature of discrimination** (Section 3.1.2) and **leading practices** to address it (Section 3.3.2). More specifically, this submission highlights the need to focus not only upon the *maternity* transition but also *paternity* and the role of the *manager* in supporting both. High levels of perinatal ill health ([PANDA, 2012](#)) are also discussed along with a call for leading Work-Family Support (WFS) Initiatives to address both the practical and emotional elements of the transition.

*“Some companies do a “cash splash”, offering significant financial incentives to those primary carers (almost always mums) who return... However, money is not the reason most mums give up on work... Employers who recognise this tackle the bigger issue of making it possible through offering flexible working conditions, assistance in finding childcare, on-site facilities for breastfeeding and return-to-work coaching [that enables a conversation about not only the practical side of the transition but also the emotional]” ([Smith, 2013](#))*

Finally, given the high number of submissions we expect to be received by the AHRC, this report provides an overview of key points. The authors are happy to provide more detailed information upon request. Queries related to this submission can be directed to the key contacts outlined on the title page of the report.

**Note:** For ease of reference, active links have been utilised within the document instead of a more traditional referencing style.

## 2. About Us

---

### Transitioning Well™



TW specialises in life-cycle transitions at work, with a focus on addressing the challenges of navigating parent and caring responsibilities with employment. Providing a range of psychological and consulting services, the TW team are registered psychologists who are members of the Australian Psychological Society (APS). With extensive experience across a range of employment backgrounds and areas of endorsement (i.e., clinical, counselling and organisational), TW consultants have a realistic and practical knowledge base upon which to draw.

Note: Whilst TW consultants are members of the APS, this is an independent submission.

### HR Legal



HR Legal is a dedicated and dynamic workplace relations and workplace safety law practice servicing employers nationally through our Melbourne office. We differentiate ourselves by delivering timely, commercial and practical advice to our clients, to assist them in meeting their broader commercial objectives.

## 3. Key Themes

---

### 3.1 Discrimination Trends: Prevalence – Nature – Consequences

#### 3.1.1 Prevalence

Our experience of working in this area over the last two years is consistent with the prevalence of discrimination reported in the [Issues Paper](#). It is important to note, however, that given the complexities of working parenthood, rates may be significantly under reported.

*“Women and their families during this time of their lives are seldom in a position to challenge their employer... [For those who are aware of their rights in the first place] Most victims give up pursuing their legal rights well before they get their claim into court... And, of course, the reality for many new mothers is that they are experiencing radical changes in their personal life, and are prioritising giving 24-hour care to their new baby” (Murray, 2013)*

Note: An analysis of available workplace data in line with the Workplace Gender Equality Agency (WGEA) [Employee Opinion Survey](#) may provide useful information for the review re: prevalence data.

### 3.1.2 Nature

The following outlines a number of key trends we have observed in relation to the *nature* of discrimination in pregnancy and return to work:

- 3.1.2.1 A lack of awareness regarding one's entitlements as a working parent. For example, the Australian Work and Life Index ([AWALI, 2012](#)) found that 26 months after the enactment of the Right to Request Flexible Work Arrangements only 30.2 per cent of those surveyed knew about it. Awareness was particularly low amongst mothers of pre-schooler age (23.5 per cent).
- 3.1.2.2 A lack of awareness from workplaces regarding the *ongoing* nature of the transition. For example, a type of 'second baby effect' as termed by [Green \(2014\)](#) is an increasingly common occurrence whereby workplaces who supported the transition for the first child do not continue this for subsequent children. An understanding of what has been termed 'sandwich' carers ([AWALI, 2012, p.43](#)), who are often looking after their own children and their aging parents, is also another increasing common reality for modern workplaces. As recommended by [The Work and Family Policy Roundtable](#), there is a need for work, care and family policies to adopt a life-cycle approach to facilitate good work family interactions.
- 3.1.2.3 Despite the critical role of managers in supporting the transition, there seems to be a consistent lack of education in equipping managers with the tools they need to support working parents. Indeed, managers frequently report that they are unsure of how to respond when an employee becomes pregnant. At the risk of saying the wrong thing they often decide to say nothing or alternatively as highlighted by the [ABS 'Pregnancy and Work Transitions' \(2013\)](#) Data, provide inappropriate or negative comments. Developing management skills that build confidence and clarity around this transition is therefore critical. For example, from our experience, it's helpful to demystify flexible work and remove any fears associated with responding to a request for Flexible Work Arrangements.

***"Irrespective of organizations' apparently generous policies on the RTR flexible working, it was predominantly an individual's supervisor who enabled or blocked access... a sympathetic line manager would often champion the employee's request, seeking ratification on their behalf with the higher echelons of the organization" ([Burnett, et al, 2012, p. 8-9](#))***

- 3.1.2.4 Registration bodies or professional membership associations may put in place conditions that make it difficult for working parents. For example, completion of compulsory professional development hours and payment of full membership fees are often difficult to meet following the birth of a baby.

3.1.2.5 A lack of awareness and facilities regarding breastfeeding and expressing needs. For example, it is common to hear of women expressing milk in toilets or waiting until they get home.

3.1.2.6 Working fathers hesitate to access initiatives such as Paternity Leave and Flexible Work Arrangements despite the need for greater support. Research by the [100% Project](#) found that while 70% of respondents claimed they had needed a greater work-life balance, only 27 per cent of men took the critical step of asking for it. The recently released evidence-based perspective paper 'Engaging Men in Flexible Working Arrangements' by the [Workplace Gender Equality Agency](#) (WGEA) also provides further evidence regarding the need to address the associated stigma attached. Furthermore, as highlighted by [AWALI \(2012\)](#) *"men in permanent/ongoing employment are less likely to make a request than women with similar employment status or men on fixed-term or casual contracts. It may be that many men in ongoing employment are particularly affected by inflexible supervisors and workplace cultures, strongly established workplace norms, and high levels of flexibility 'stigma' – that is penalties that attach to requesting or using flexibility and being a 'non-standard' worker"* (p. 63). [Burnett, et al, \(2012\)](#) have likened fathers at work as a 'ghost in the organizational machine'.

We strongly believe that not until the following barriers are addressed, will it be possible for working mums to no longer carry the weight of caring responsibilities and move towards bridging the gender gap:

- A 'cultural mindset' where accessing initiatives is seen as a career limiting move;
- Lack of organisational policies and practices (gender disparity);
- Lack of awareness re: transitional resources (e.g., right to request flexible work arrangements);
- Lack of support from managers;
- Prejudice from fellow employees;
- Unconscious bias (both from management and the employee themselves (see [100% Project](#) research); and
- Well-being and safety (e.g., fatigue and Perinatal II-Health).

3.1.2.7 Hiding one's pregnancy and delaying the announcement for fear of discrimination seem to be common themes. This can have implications for Occupational Health and Safety as women choose to manage their own risks in the early stages of pregnancy. See article by [Quart \(2012\)](#).

3.1.2.8 Pushed by gender diversity reporting requirements and a need to keep up with legislative changes, there is a tendency for some organisations to have a 'tick box' mindset rather than an approach that sees WFS as an essential part of any embedded Workplace Support Services' (WSS) model.

*“... many senior managers regard work-family initiatives as mainly a ‘compliance issue’ designed to get more women into the workforce... So they give lip service to the initiatives because they believe they have to, but their hearts are not really in it... Before establishing initiatives, it is advisable to evaluate senior management attitudes, values and behaviour to check whether they are likely to be supportive”*  
(Toten, 2013)

3.1.2.9 In addition to the [ABS ‘Pregnancy and Work Transitions’ \(2013\)](#) Data, other issues that can give rise to discrimination by employers include:

- Failure to consult with employees whilst on parental leave about decisions which have a significant effect on status, pay and location;
- Employees on parental leave being made redundant with little or no consultation and no consideration of redeployment opportunities;
- Failing to provide a comparable position following the employee’s return from parental leave;
- Reallocating an employee’s shifts without consultation whilst on parental leave to shifts that may discriminate due to an employee’s family responsibilities;
- Unreasonable refusals to agree to requests for flexible working arrangements, including: requests for changes in hours of work (e.g. part-time), location of work (e.g. working from home on particular days), changes to start and finishing times or breaks at certain times of the day to collect children from childcare;
- Employees returning from parental leave being provided with a lower quality client base;
- Employees returning from parental leave being provided with a less diverse range of work because of concern that they will not be able to complete or participate in certain types of work. This results in employees de-skilling or not being eligible for promotion;
- Employees not invited to client functions or other networking opportunities;
- Training, work meetings and work functions consistently on non-work days; and
- Policies related to promotions that indirectly discriminate against employees who have taken parental leave.

### 3.1.3 Impact

In addition to the consequences of discrimination outlined in the [Issues Paper](#), the following provides some additional points listed under the relevant headings:

### 3.1.3.1 Parents and Families

Expanding on the point that 'discrimination affects the general health and wellbeing of parents and in turn families' (Point b.3), it is important to highlight the following research:

- A third of Aussie mothers return to workplaces that aren't family friendly, resulting in increased rates of psychological distress ([The Murdoch Children's Research Institute](#));
- Distress among fathers was 1.5 times higher than men in the general population ([Giallo, 2012](#));
- Over 1800 Australian parents are diagnosed with antenatal or post natal depression each week ([PANDA, 2012](#));
- Mental health disorders have risen dramatically among new parents and could have an impact on children's health ([Hiatt, 2013](#)); and
- The effect of work-family conflict on parenting was found to be of a similar magnitude to that of psychological distress on parenting ([Bita, 2013](#)).

***"PANDA is urging employers to watch all new mothers and fathers returning to work and proactively offer assistance and flexibility where required. Particularly new fathers who may not reach out for assistance".***

### 3.1.3.2 Businesses

Some additional points for the consequences upon businesses include:

- Reputational damage where allegations of discrimination are played out in the media (whether there is merit in the case or not). This also affects employer of choice branding;
- A global study by workplace provider [Regus](#) has found that tired parents cost employers about \$5B a year;
- The total costs of lost productivity due to perinatal depression in 2012 were estimated to be \$310.34 million - men (\$223.75M) and women (\$86.59M) ([PANDA, 2012](#)); and
- High levels of fatigue can also compromise safety behaviours. Research by [Southern Cross University](#) showing that fathers of newborns are 36% more likely to have near misses at work and 26% more likely to have a near miss on the road due to fatigue.



### 3.1.3.3 On the Wider Australian Community

- Expanding upon the point ‘Loss of women in the workforce can affect overall economic productivity and growth in Australia’s gross domestic product’ (Point d.2) it is important to highlight that according to [Goldman Sachs](#), Australia is missing out on \$195B or 13% of GDP by failing to close the workforce gender gap; and
- A report prepared by [PWC](#) for Beyond Blue has estimated the costs of not treating perinatal depression and anxiety to the Australian community to be \$660 million.

## 3.2 Practical Challenges of Supporting Working Parents

### 3.2.1. Employer

- Managers not knowing their legal obligations or internal policies and misrepresenting these to employees.
- Managers lacking the skills to identify early warning signs of perinatal ill health or the knowledge of the specialised resources available if required.
- Costs related to training replacement employees during parental leave and additional employees if an employee works part-time.
- Costs related to registration fees and mandatory professional development hours imposed by professional bodies paid by employers for employees working on a part-time basis.
- Costs related to equipment and tools for part-time employees.
- Flexible working arrangements or part-time work may impact on customer service.
- Managing the expectations of clients. For instance, clients in the professional services industry may require work in short time frames and demand professionals who are contactable on a daily basis. In industries, where clients are billed by the hour, there may be resentment amongst clients if there is doubling up of work. For instance, where another employee has to review a file whilst a part-time employee is on a non-work day.
- Employers need to have open discussions with their current employees to determine whether employees may be willing to change their own working arrangements to accommodate requests for flexible working arrangements.
- Determining whether it is feasible for an employee to work from home or whether an employee’s role requires them to be physically present. Employers should consider whether IT such as access to an employer’s server, email access and Smartphones can be arranged to ensure that an employee can work remotely from home.
- Succession planning can be difficult if not proactively addressed. For example, entire teams of women having babies at similar times.
- Employees in senior positions may have worked additional hours to achieve the requirements of their job prior to going on parental leave and are now no longer able to perform these additional hours due to family responsibilities.
- Consistency of training for all staff can prove difficult where there are part timers who may not be present on a day when training is provided.
- Managing the allocation of work to a part-time employee to achieve the business and the employee’s goals.
- Arranging staff meetings and work functions where several employees work on a part-time basis.

### 3.2.2. Employee

- During pregnancy there may be times that employees feel tired and sick.
- Perinatal ill health (see Section 3.1.3.1).
- High levels of fatigue (see research by [Southern Cross University](#) and the Parenting Research Centre [Wide Awake Project](#)).
- Priorities of new parents changing that impact on actual or perceived commitment to work and workplace. At times new parents, adopt a confrontational approach to requests for flexibility and do not give proper regard to the impact on their requests for flexibility for the employers operations or needs to have work performed effectively while balancing competing commercial and operational requirements.
- Difficulties finding available, good quality and flexible childcare options.
- School appointments or events during working hours.
- Difficulties meeting continuing professional development requirements whilst on parental leave.
- Difficulties establishing and developing external client and internal business relationships due to part-time work and inability to attend professional networking as well as business social functions.
- Resentment from colleagues or supervisors when required to leave to collect children from child-care.
- Employees whose previous roles included some travel and after hours work may have difficulty performing these aspects of their role.
- For lawyers, difficulty performing litigation where court dates may require employees to work on additional days.
- Inability to complete work on a part-time basis requiring employees to work additional unpaid hours after hours.
- The need for working fathers to manage the conflict of both 'new' and 'traditional' ideologies

*“...men are striving to be involved with the process of pregnancy and childbirth and society and its institutions now consider involvement to be a significant indicator of a ‘good’ partner and father. However, the traditional role of provider is also important in the attainment of status. Thus [there is a need for men to] navigate and assimilates both ‘new’ and ‘traditional’ ideologies while endeavouring to manage the conflict it creates” (Cooper, 2005, p. 1)*

### 3.3 Addressing the Trends and Challenges

*“Awareness does not equate to action and it is action that reduces harm ... OH&S professionals and policy makers must develop strategies to activate the awareness” (Jones, 2013)*

#### 3.3.1 Legislation and Policy

##### 3.3.1.1. The Legislation

There are legislative protections for employees related to pregnancy and returning to work. Below are some of the protections related to requests for flexible working arrangements including the General Protections Provisions in the *Fair Work Act 2009* (Cth), state and federal anti-discrimination laws and Workplace Health and Safety legislation.

##### *General Protection Provisions*

Under the General Protections Provisions, an employer cannot take adverse action (meaning dismissing or refusing to employ someone, injuring an employee in their employment, altering the position of the employee to their prejudice; or discriminating against them) because the employee has a workplace right, has exercised a workplace right or proposes to exercise such a right. The right to request flexible working arrangements and to work part-time are workplace rights. Further, an employer cannot take adverse action against an employee for a discriminatory reason including an employee’s sex, family or carer responsibilities or pregnancy.

##### *State and Federal Anti-Discrimination laws*

In Victoria as an example, under the *Equal Opportunity Act 2010* (Vic):

- It is unlawful to directly or indirectly discriminate against an employee on the basis of certain attributes including their parental or carer status, sex or pregnancy;
- Employers must not, in relation to the work arrangements of an employee, unreasonably refuse to accommodate the responsibilities that the employee has as a parent or carer; and
- The employer has a positive duty to take reasonable and proportionate measures to eliminate discrimination (The satisfaction of this test depends a number of factors).

Federally, under the *Sex Discrimination Act 1984* (Cth):

- It is unlawful to directly discriminate against an employee on the basis of family responsibilities (no indirect discrimination on basis of family responsibilities but can argue indirect discrimination on basis of sex); and
- It is unlawful to directly or indirectly discriminate against an employee on basis of sex, pregnancy and potential pregnancy and breastfeeding (including expressing milk).

##### *Workplace Health and Safety legislation*

Employers have a general duty to provide and maintain so far as is reasonably practicable a working environment that is safe and without risks to health (including psychological health). One of the ways that the duty is met is by providing adequate information, instruction, training and supervision to staff, to enable them to work in a manner that is safe and without risks to health.

### 3.3.1.2. Challenges and Implementation

Many employers and managers genuinely aim to accommodate parents returning to the workforce from both the perspective of meeting legal obligations and being employers of choice. Employers and managers have of course personal experiences in balancing work and family and bring these experiences to their own decision making. To enhance the success of these transitional arrangements employers and line managers can be supported by undergoing training in relation to their legal obligations related to leave, but also strategies to ensure there is a successful and mutually advantageous outcome for the employer and the parent. This training should include:

- What are the minimum legal entitlements related to parental leave;
- Responding to requests for flexible working arrangements to ensure that there is a genuine consideration of requests;
- Risks related to adverse action, discrimination and constructive dismissal; and
- Best practice strategies related to retaining and supporting pregnant employees and employees returning to work.

Employers need a consistent policy regarding responding to flexible working arrangements to help managers ensure that all requests in respect to flexible working arrangements are properly considered and that claims of discrimination are minimised. The Policy should consider the (non-exhaustive) factors regarding reasonable business grounds set out in the *Fair Work Act 2009 (Cth)* and accommodating parental responsibilities set out in the *Equal Opportunity Act 2010 (Vic)*.

Rather than refusing a request for flexible working arrangements it is open for the parties to discuss the request and come up with an approach that would accommodate the needs of both parties. The employer needs to demonstrate reasonableness in its approach to such requests. Some employers find it useful to set up flexible working arrangement temporary agreements which may be modified or revoked if not working. Employers should document the consideration process when considering a request for flexible working arrangements including the reasons for and against granting the request.

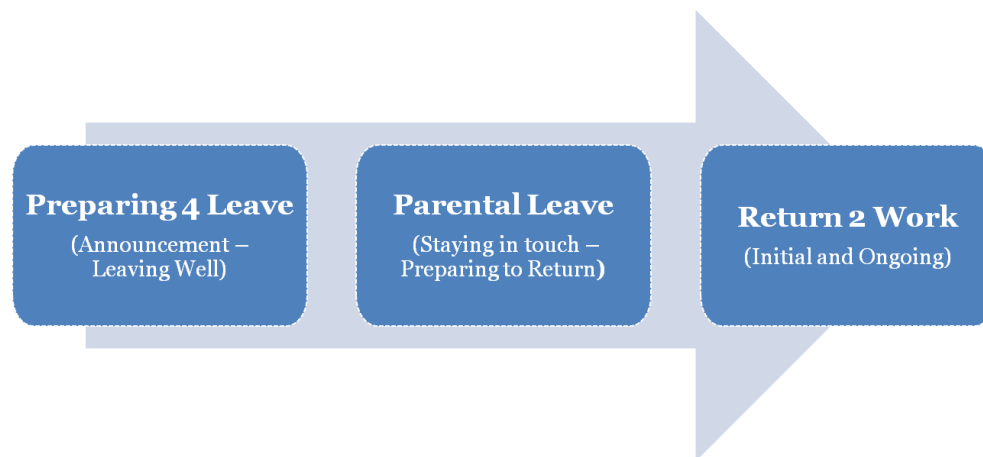
Some employees returning from parental leave seek the option of working from home. If agreeing to this request, employers have a legal obligation to ensure that the physical home environment is safe and organised appropriately for employees (i.e. whether there is a dedicated space for work, chair and desk set up etc.).

On a practical level, the employer needs to develop and provide employees with a 'home' health and safety check list to complete. The employer may also carry out this safety audit. This check list should highlight health and safety risks and require the employees to assess the likelihood of risk. Measures should be implemented to minimise and eliminate any risks highlighted. If the responses to the check list create reasons for concern for the employer, the employer may need to refuse the request to work from home. We note that in some cases, the degree of supervision from a work health and safety perspective, may impact on whether an employer accepts a request to work from home. Further, employers also have a legal obligation to prevent risks that can impact on an employee's mental health and well-being. Employees working from home may experience feelings of isolation. Employers need to consider and implement ways of ensuring staff working from home remain connected to the workplace.

### 3.3.2 Leading Practices

In response to the transitional context (e.g., ageing population, increase in dual income families, more women in the paid workforce etc) there has been an emerging trend in Australia to address the needs of working parents. A review of WFS Initiatives, nationally *and* internationally, reveals a number of key strategies currently being implemented including:

- Financial incentives such as a those announced by [IAG](#) and [Caltex](#)
- Emergency and Ad-hoc Child Care with some organisations offering onsite child care centres
- Pre-parental leave and return-to-work workshops
- Maternity/Career Coaching
- Portals dedicated to offering online support and publications (e.g., newsletters, sourcing child care)
- Access to reference tools, parents' forums and seminars
- [Breastfeeding Friendly Workplace Accreditation \(BFWA\)](#)
- [Parent Passports](#)
- A type of [Full Circle Program](#)
- Mentor Mum Programs
- A case management approach for the management of parental leave

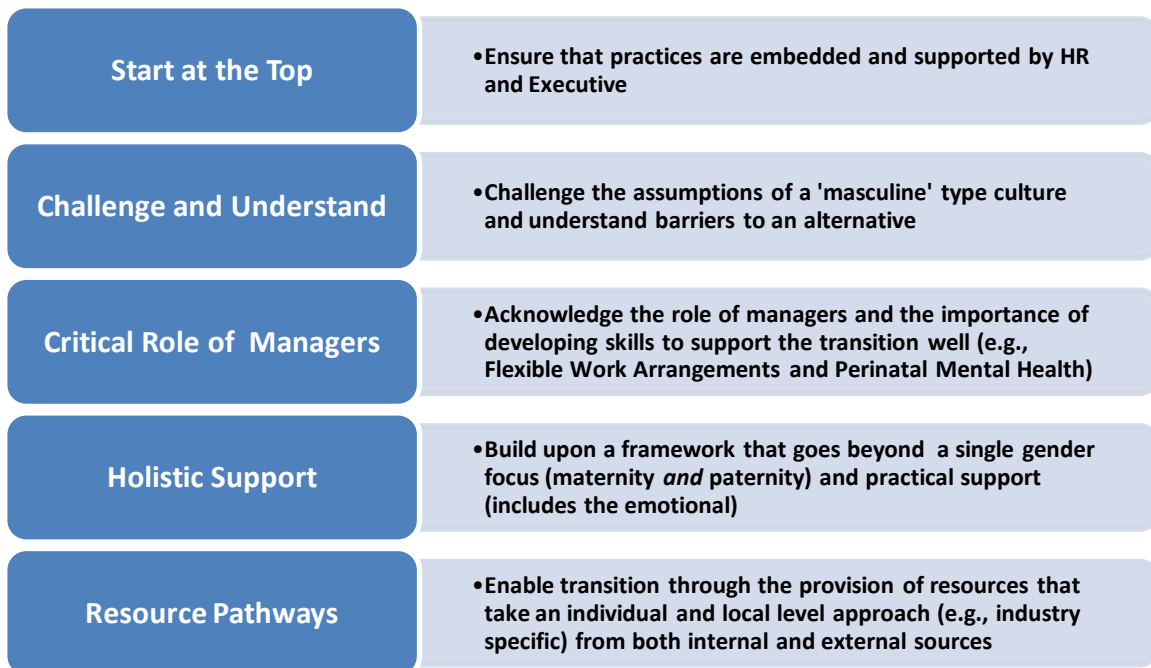


**Figure 1: The Transitional Phases Model**

A review of the broader literature and anecdotal observations highlights the need for leading WFS Initiatives to be:

- Built upon an understanding of transitional theory and the phases of transition (see [Figure 1](#)). For example while much attention is spent on the Return to Work Phase, research has shown the importance of the preparing for leave phase. For example, *“Organisations should ensure that human resource managers and direct line managers encourage women to make plans for their return to work before commencing Maternity Leave... the scope of the planning arrangements needs to cover multiple factors – the workplace, the child’s father and child care”* ([Coulson, et al, 2012](#), p.40)
- Embedded in what TW has termed an SLS Transitional Culture: Supportive; Lifecycle (Approach); and Safe. [Figure 2](#) outlines the key elements of a supportive Transitional Culture.

- Flexible to account for the seasonal nature of the transition and organisational specific differences. For example, providing both online and face to face delivery options.
- Aware of the critical periods identified for both the maternity and paternity transitions including:
  - A 'very critical period' for women around the 9-12 months following return to work whereby they commonly question their role in the workplace ([Bussell, 2008](#), p. 22). In addition to a key intervention point, this information is also important when considering retention rates within organisational data sets (i.e., not just looking at initial return rates).
  - A critical period for men around the 12 weeks post birth where they report levels of 75% fatigue compared with 20-30% in the general population ([Mellor and St John, 2012](#), p. 85).
- Regulated in a way that ensures that service providers are fully trained, qualified, experienced and supervised.



**Figure 2: Elements of a Supportive Transitional Culture**

In addition to these considerations, we have also developed a list of strategies to assist with retaining and supporting employees who are pregnant or have taken parental leave and prevent discrimination:

- At a minimum, managers need to be trained on the employer's legislative obligations to ensure that they comply with their legal obligations;
- Employers should document policies and procedures;
- Employers should have training and awareness raising programs to ensure that all staff members know their rights and responsibilities;

- Policy and training should provide several examples of behaviour that may constitute unlawful discrimination/adverse action;
- A clear statement that if an employee deliberately engages in unlawful discrimination/adverse action they may be subject to disciplinary action;
- A clear statement that all employees have a responsibility to address and report unlawful discrimination/adverse action and that failure to do so may lead to disciplinary action;
- Review departments where there are high levels of absenteeism or resignations;
- Review areas that may be difficult for employees with flexible working arrangements such as travel and work functions;
- Conduct work functions and training where possible on days when part-time employees are present;
- Develop business plans with employees to ensure that an employee's professional goals are achieved;
- Be open to a range of options for flexible working arrangements including: job sharing, part-time work; working from home (even on an ad hoc basis); working more hours over fewer days; and
- Make arrangements for leave without pay during school holidays or 8 weeks at half pay.

In line with TW's commitment to best practice:

Current practices include:

- **Transitional Mindset for Managers Workshop:** *Developing management skills to support the transition from 'working person' to 'working parent'.* In partnership with HR Legal, Transitional Mindset is designed to help managers navigate the transition from 'working person' to 'working parent' within a workplace context. Facilitated by both a lawyer and psychologist, this interactive workshop provides a unique learning experience to discuss 'real life' implications and sensible strategies from both a legal and best-practice perspective.
- **Transitional Support** through the Medicare funded [Non Directive Pregnancy Support Counselling \(NDPSC\)](#)
- **Transitional Data Set Assist (TDSA):** Supporting organisations with gender diversity reporting requirements and harnessing organisational data to capture both the impact of the transition (e.g. retention rates both initial and ongoing) and value of intervention.

Future initiatives include:

- A "From 'Working Person' to 'Working Parent'" National Perinatal Workplace Initiative that builds upon and refines existing national workplace programs to provide a much needed perinatal focus. Developed by The Centre of Perinatal Excellence (COPE) and TW, this program would include six modules that target two phases of the transition (i.e., preparing for leave and returning from leave) for both managers and employees across the maternity *and* paternity transitions. Funding for the paternity arm has currently been sought from [Mover](#) as part of a larger Paternal Perinatal Depression Initiative.

- Building upon Maternity Coaching developed in the UK in 2005, TW together with COPE are currently seeking funding to evaluate the only known evidence-based theoretical framework of Maternity Coaching to date. Developed at Columbia University by Dr. Amy Beacom, The [RETAIN Maternity Leave Transition Coaching Model](#) offers a coaching program that considers seven impacts on transition success over the three phase parental leave transition - preparing for leave, during leave, and returning from leave (consistent with Figure 1). Dr. Beacom has granted permission for our study using an Australian sample to be conducted as part of a larger cross continent study. Findings will be important for: 1) informing coaching programmes for professional parents regardless of their gender; 2) assessing the potential for a broader application likened to a kind of ‘Corporate CAFHS’; and 3) the creation of a type of accreditation program for ongoing training and supervision in Maternity Coaching in Australia.

*“... the transition to parenthood is arguably the most significant; the context of maternity coaching within an organisational setting is highly complex... an extremely personal intervention. These elements combined reinforce the importance that maternity coaches be fully trained, qualified, experienced and supervised”* [\(Cotter, 2012\)](#)

- In line with the need to provide best-practice support for workplaces and a safe work environment for working parents, TW and MSVS Consultancy are in the process of developing a Transitional Workplace Risk Assessment Tool (with a Maternity and Paternity Arm). In consultation with a cross-section of industries and international benchmarks, the aim of this tool is to provide specialised knowledge in this area to compliment the more general risk assessments available in Australia. As a multidisciplinary team, the initial development phase has identified the need for the risk assessment to be:
  - Considerate of the following risks: 1) Fertility (men and women); 2) Health of pregnant workers; 3) Health of the unborn foetus; and 4) Children from chemicals transmitted during breastfeeding
  - Conducted and reviewed across the different stages of the perinatal period and in line with TW’s Transitional Phases Model (see [Figure 1](#)).
  - Collaborative in its approach between the employer and employee with the benefit of medical and other specialist advice upon request

Finally, HR Legal’s parent body CIE Legal presents a Case Study of a law firm which supports working parents.

### CIE LEGAL CASE STUDY

CIE Legal (including HR Legal) provides a case study of a law firm which genuinely acknowledges the benefits of retaining and supporting pregnant employees and employees returning from parental leave. Informed by its partnership with TW and expertise in this area, CIE Legal’s philosophy and practice of supporting flexible working arrangements has enabled it to recruit and retain lawyers from top tier law firms seeking to advance their legal careers and develop their legal skills at the same time as having families.

#### **Background**

Approximately twenty (20%) of CIE Legal’s workforce is either currently on parental leave or working part-time. Two employees are currently on maternity leave, five employees are working part-time and one law partner works part-time. CIE Legal has retained 100% of employees that have taken parental leave.



### **Best Practice Strategies**

**Preparing for Parental Leave:** Prior to commencing parental leave, some pregnant employees have entered into working from home arrangements which enable them to work from home part of the week.

**Parental Leave and Communication:** Employees on parental leave are retained on CIE Legal's group email list. This means that all firm wide emails are sent to them and they are kept informed and up to date on firm notices, announcements, achievements and changes.

**Whilst on Parental Leave – Retention of Firm Equipment:** Employees on parental leave are able to retain their work Smartphone and laptop. This enables employees to access emails and feel connected to the workplace.

**Invitations to Firm Functions:** Whilst there is no pressure to attend, employees on parental leave are invited to firm social activities and events, the end of financial year celebration and the firm Christmas function. Many functions are family friendly and children can attend. Employees are also invited to firm client functions so as to maintain connections and strong relationships with clients. Part-time employees are regularly invited to firm functions during their work (and non-work) days so that they can build connections with clients.

**Parental Leave and Professional Development:** CIE Legal invites and pays for professional development of employees whilst on parental leave. This has included a two day intensive presentation and public speaking skills workshop. CIE legal also had regular internal continuing professional development lectures conducted by internal and external presenters which part-time employees and employees on parental leave are all invited to attend. The timing of these lectures is carefully determined so as to suit employees' personal and professional commitments.

**Consultation Whilst on Parental Leave:** Whilst on parental leave, employees meet with their main supervising partner to discuss return to work and other flexible working arrangements.

**Business Plan:** Employee lawyers are all required to develop a business plan that sets out "current work", "professional goals" as well as "work that employees seek from partners of the firm in order to achieve their professional goals". Partners of CIE Legal are receptive to the professional goals of employees and endeavour to provide all employees with work that assists them to achieve their professional goals.

**Client Management:** Employees are supported by their colleagues during days off. Other staff members are able to respond to client calls during days off. Firm wide emails are sent each week communicating to all employees, which of their colleagues will be in the office. Employees have access to other employees and partners calendars so that they know their colleagues' schedules. The firm IT document management system ensures that other employees are able to access and work on matters during an employee's non-work day.

**Differences to other Law Firms:** The performance of lawyers at CIE Legal is not measured by achieving budgets and targets of billable hours. This has a dual benefit to both CIE Legal clients and employee lawyers. Firstly, this provides a benefit to clients in that lawyers do not feel pressured to inflate client billings in order to achieve their budget. Further, this creates an environment where lawyers are able to collaboratively consider the legal and commercial imperatives of the client and provide a client focused solution in the most efficient manner possible. This also reduces stress in the workplace, minimises hoarding of client work and increases CIE Legal's responsiveness to clients.

**Sophisticated Technology:** CIE Legal lawyers are each provided with an individual laptop and Smartphone. Lawyers are easily able to log into the law firm's server by using a basic internet connection. Further, CIE Legal creates eFiles for every client and all client information, documents and correspondence is saved in the eFile. CIE Legal also uses an online document management system. This means that all the client's eFiles are saved in the communal document management system and can be easily accessed by lawyers. Lawyers are also able to work on a client document by checking out the client document, making amendments to the document and then checking it back into the communal document management system. Whilst a document is checked out, other lawyers are unable to amend the document. This creates flexibility for working parents who may need to leave work early and finish off work from home. Further it allows employees to work from home on a regular or ad hoc basis depending on their family circumstances.

**Work/Life Balance:** Whilst clients come first, CIE Legal genuinely support a work/life balance. As a team we support each other to ensure that this is achieved. CIE Legal expects its employees to be highly focussed on customer service and dedicated to providing highly practical advice. We work in a merit based team environment. We are not hierarchical and we do not work in silos. We foster an environment that enables the achievement of both personal and professional goals.

**Flexible Working Arrangements:** CIE Legal allows employees returning from parental leave to return to work progressively (this includes commencing with one day a week). The current part-time arrangements include two, two and half and three day arrangements. CIE legal also has a male partner who works four days a week. CIE Legal enables its employees to have later starting times and earlier finishing times to accommodate for child care arrangements. Employees are also able to attend crèche/school events and to make up time at a later time. Part-time employees are entitled to work from home on a regular or ad hoc basis.

## 4. Review Recommendations

---

The following presents a list of 10 recommendations for consideration:

- **Recommendation 1:** To fund a study on the Social Return on Investment (SROI) for supporting working parents with the aim of building a clear and objective business case. Consideration should be given to the soon to be released study by the [Australian School of Business](#) that shows a link between WFS practices and a range of positive business outcomes. The results of such a study could then be incorporated into a type of Executive Briefing available at no cost to interested organisations.
- **Recommendation 2:** To commission a set of research studies that target identified gaps in both theory *and* practice. For example, evaluation of a selection of interventions to enable practices to be evidence-based, best practice programs. The development of a return to work program for working parents to compliment/extend current return to work programs would also be an important contribution in this emerging area. Indeed, *"It is interesting to note that a literature search uncovered several papers regarding the development, implementation and benefits of return-to-work programs for employees with illnesses, injuries or disabilities. No such literature was found on return-to-work programs for pregnant women"* ([Coulson, et al, 2012](#), p. 40-41).
- **Recommendation 3:** That a type of Working Party be established to focus attention upon working fathers (i.e., addressing the key barriers identified in Section 3.1.2.6)

- Recommendation 4:** That the roundtable consider the evaluation of the Dad and Partner Pay being conducted by the University of Queensland ([UniQuest](#)) with consideration for a paid parental leave scheme that encourages father's to take more time off with their children and disrupt the concept of the female as primary caregiver and the male as bread winner. This would need to be a government funded non-transferable paternity leave entitlement that a family loses if it is not used. Whilst we acknowledge that the current payment can be taken anytime within the 12 months of the birth or adoption of a child, we would ask that consideration be given to allowing for more flexibility in how it is taken rather than in one instalment. As suggested by [Mellor and St John \(2012\)](#), *"...because the results of this study have highlighted that fatigue was worse at 12 weeks... fathers might need to organize their paid parental leave in a more flexible manner in order to ease their work and family commitments. For example throughout the first 12 weeks, it might be more beneficial for fathers to work less days per week, have later start or earlier finish times for work and to utilize part of their paid leave to supplement the reduction in their corresponding work hours"* (p. 86)
- Recommendation 5:** Improve knowledge and awareness of the right to request flexible working arrangements through a selection of targeted campaigns and skill development opportunities
- Recommendation 6:** Improve knowledge and awareness of the [Non Directive Pregnancy Support Counselling \(NDPSC\)](#) service with the view to extend the rebate to a full session, be initiated by both men and women with the adoption of a different name (i.e., Non Directive *Parent* Support Counselling). Alternatively, dependent upon the evaluation of the [marriage counselling](#) voucher trial, a possible extension could be considered to provide working parents with a similar voucher to assist in navigating the shared care responsibilities conversation.
- Recommendation 7:** That the recommendations of the review be considered against the Abbot's Government's Paid Parental Leave Scheme and the stakeholder consultations currently being conducted to inform an Exposure Draft of the legislation
- Recommendation 8:** Continued investigation into all forms of child care options including considering the findings of the [Productivity Commission Inquiry](#) into Child Care (and Early Childhood Learning) that are flexible, affordable and accessible.
- Recommendation 9:** That mediation services currently utilised for other complaints (e.g., bullying) be extended to include a type of Transitional Mediation service that specialises in the area of pregnancy and working parents.
- Recommendation 10:** That a type of incentive program for organisations be developed (i.e., Corporate Carers Programme) similar to the [Experience+ Corporate Champions Programme](#) developed to target age discrimination

## 5. Conclusion

---

The authors are grateful for the opportunity to submit this report and would be happy to provide further input or assistance as the National Review progresses.

*“How might organisations enable [parents] to not simply remain in their employment, but to flourish and contribute to their maximum potential whilst acknowledging the very real challenges of being a working [parent]?” [\(Cotter, 2012\)](#)*

## 6. Key Partners

---

In line with our commitment to collaboration, TW and HR Legal continue to grow a network of key partners including:

**Centre of Perinatal Excellence (COPE):** Dedicated to improving the emotional wellbeing of parents during pregnancy and the year following the birth of a baby.



**MSVS Consultancy:** MSVS strives to be a market leader and provide innovative solutions that are tailored to the individual client’s needs to assist with achieving successful and sustained return to work outcomes.



**Parent Wellbeing:** An innovative online parenting website that helps parents to create their own parenting approach to suit their family. Parent Wellbeing’s work is based on an understanding that all families are different and have unique needs, therefore no one parenting approach is right for all families.



**Well Mum Well Baby:** Well Mum Well Baby is a niche education and counselling service which provides information and/or confidential support in a safe space for new and expectant parents.

