

Evolution and Prospects: Tracing the Trajectory of Reproductive Leave Policies in Australian Workplaces

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Introduction

Reproductive leave and flexible work policies are workplace regulations that enable employees to take time off or adjust their working hours for various reasons related to the symptoms associated with menstruation, menopause, fertility treatments (IVF) and breast or prostate screenings. These policies consider the physical, emotional and logistical challenges these life events may entail. This article discusses the importance of reproductive leave and flexible work policies in Australia in addressing the unique challenges faced by employees dealing with menstruation, menopause, fertility treatments and screenings for reproductive health.

Background

In their global review and analysis of menstrual leave legislation and policies, [Baird et al. \(2020\)](#) highlight that reproductive leave policies are significant in promoting gender equality, improving work-life balance and supporting employees' health and well-being. Further, [Baird et al. \(2020\)](#) discuss several critical aspects of reproductive leave and flexible work policies, including the duration of leave, eligibility criteria, whether it is paid or unpaid and its impact on employee retention and productivity. [Studies](#) have shown that comprehensive reproductive leave and flexible work policies can increase job satisfaction, reduce employee turnover and lead to better health outcomes for parents and children. These policies are also essential for advancing gender equality in the workplace, as they help to reduce the career interruptions that women may experience due to suffering from symptoms associated with having a reproductive body, in addition to their disproportionate responsibility for family care.

Although providing reproductive leave may involve short-term costs for employers, economic analyses suggest that the [long-term benefits](#), including enhanced employee loyalty, reduced turnover costs and improved workforce productivity, can outweigh these initial investments. Policy recommendations often suggest that [governments should provide direct support for reproductive leave](#) and flexible working arrangements or legislate to the effect that [employers must offer paid reproductive leave](#) and flexible work to all workers, regardless of their employment type or size, to ensure all Australians have access to these benefits.

Reshaping the Landscape of Reproductive Leave Policies in Australia

[The Fair Work Act 2009 \(Cth\)](#) currently provides that employers are to pay their employees 10 days of personal/carers leave per year. These days are reserved for personal illness or injury and/or carers

leave. Issues regarding the reproductive body, such as painful menstrual symptoms or distracting and uncomfortable menopause symptoms, are disproportionately experienced by women. Therefore, the 10 days of personal leave every worker receives is insufficient for women. Further, if a worker currently needs to access flexible work arrangements under the Fair Work Act, such as adjusting their hours of work, they can only do so if they have a recognised disability, which would deny women suffering from reproductive health issues such as dysmenorrhea (painful periods).

In a pioneering move that promises to reshape the landscape of workplace health and inclusivity, law firm Maurice Blackburn launched a campaign in November 2022 [“Unions in ground-breaking push to secure menstrual and menopause leave for menstruation and menopause leave”](#) in partnership with the Australian Workers Union (AWU), Transport Workers Union (TWU), Rail Tram and Bus Union (RTBU) and Australian Manufacturing Workers Union (AMWU). The campaign has now rightfully been taken over by the national and state union peak bodies, and unions across Australia have launched their own campaigns seeking these entitlements for workers.

According to [a report by the Victorian Women’s Trust](#), almost half of the 3.28 million women aged 40-59 experiencing menopause or perimenopause have contemplated leaving their jobs due to severe symptoms including heavy and irregular bleeding, fatigue, migraines, bloating and bowel issues, hot flushes, brain fog, depression and anxiety. In contrast, younger women aged 18 to 25 often suffer from painful periods, with approximately [one in nine women being diagnosed with endometriosis](#). The discussion also touched on the struggles of workplace flexibility and insufficient sick leave entitlements, which particularly impact women with additional caring responsibilities. The possibility of extending reproductive leave to all employees, covering a range of needs, including vasectomies, was also mentioned. The participants emphasised the importance of a more inclusive and supportive approach to reproductive health in the workplace.

During the [AIB Symposium in December 2023 on Reproductive Leave Policies and Women’s Careers](#), the authors delved into the pressing need for reproductive leave and the advocacy efforts of Australian academics, union representatives, lawyers and practitioners over the years. Our speakers shed light on the silent suffering of women with menstruation and menopause systems in the workplace and the adverse effects it can have on their bodies. To illustrate this issue, one of the co-authors, [Jessica Heron](#), Lawyer, Maurice Blackburn, shared survey results from unions, revealing a stigma surrounding reproductive health discussions in the workplace. This stigma only exacerbates the suffering and leaves workers feeling ashamed and isolated. Jessica also discussed how Australia’s national labour laws were initially designed to cater to a predominantly masculinised workforce, which is likely why it is silent on these issues. While there have been wins regarding reproductive leave policies in the past, such as parental leave and flexible work arrangements, the act does not recognise the unique symptoms of reproductive health and its impact on employees, especially women.

Addressing Stark Realities: The Imperative for Urgent Change

At the Together Union’s (public service union) 2023 Women’s Conference held in Brisbane, for the first time, union members (public servants) engaged in an open discussion about the difficulties of managing reproductive health matters in the workplace. Topics included endometriosis, polycystic ovary syndrome, menopause and perimenopause. The discussion was significant as many members

stated that they had not spoken out about how these issues have affected them in the workplace in a public forum. The conversation highlighted the significant physical and mental challenges that these conditions pose, including pain, fatigue and brain fog. Participants expressed concerns about the lack of seriousness with which employers currently treat these issues due to the stigma surrounding them.

The [Together Union](#) has since begun surveying their members and has had responses from over 600 of their union members, which brought to light the profound effects that these natural health phenomena have on women's working lives. The initial findings of the survey results depict a concerning situation where a large majority of individuals, 72% for menstruation-related symptoms and 50% for menopause, have had to use their personal leave to cope with their symptoms. Even more alarmingly, a significant portion of these individuals did not have enough leave balance to cover their needs, leading to 73% of members experiencing painful menstruation and 60% of members going through menopause considering taking time off but are unable to do so. This dilemma has pushed 22% and 35% of women, respectively, to contemplate leaving their jobs altogether, highlighting the urgency of addressing the current failure in Australian employment law to address women's reproductive health issues.

One of the most notable statistics from the survey is that an overwhelming 96% of respondents expressed a willingness to use a separate leave allocation for these specific health concerns, indicating a clear need for policy intervention. Furthermore, the survey exposed a concerning silence around these topics in the workplace, with 55% of respondents feeling unable to discuss their needs with supervisors, highlighting the stigma and lack of understanding surrounding women's reproductive health issues.

We (the authors) acknowledge the importance of these findings and strive to establish a model for reproductive health policies that acknowledge and tackle the specific requirements of women in the workplace. Our efforts represent a vital advancement in removing the obstacles that women encounter while juggling their careers and reproductive health.



Jessica Heron

Lawyer, Maurice Blackburn

Jessica holds a Juris Doctor from Monash University and is currently a practising solicitor at Maurice Blackburn Lawyers, specialising in Employment and Industrial Law. Jessica is part of a team in Brisbane that is listed as a top-tier law firm for plaintiffs, an achievement that her team are proud of as passionate advocates for workers' rights.

In September 2022, Jessica established a working group with some of her union clients to uncover ways in which reproductive health issues could be better dealt with by workplaces. The working group has grown significantly and now includes some of the largest unions in the country, covering every industry. The working group's advocacy efforts have been reported on by every major publication in Australia, and one of their goals was to help facilitate a national conversation on this topic. Jessica currently provides advice to unions on how they can establish better workplace policies that address reproductive concerns, such as menstruation and menopause.



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Mahan is a Senior Lecturer specialising in the fields of Employment Relations and Human Resources. She has extensive experience in teaching, research and academic leadership roles. Mahan has supervised research students, taught various subjects and managed academic programs at AIB. Her research interests specifically focus on gender equality, talent management, and workforce diversity and inclusion.

Mahan has published in high-ranking journals and presented at various conferences related to these topics. She is actively involved in professional committees and editorial roles, contributing to the advancement of industrial relations and gender studies. Mahan's ultimate goal is to create inclusive workplaces and empower individuals through education and research.

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