Submission to the Inquiry into the operation and adequacy of the National Employment Standards

McCabe Centre for Law and Cancer

& Cancer Council Australia

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Advancing law to fight cancer

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This submission may be published. There is no need to anonymise this submission.

The McCabe Centre and Cancer Council Australia would like to thank and gratefully acknowledge people with cancer, their families and those caring for them who have shared their experiences, including members of the Cancer Council Victoria Community Advisory Network for their contributions to this submission.

The McCabe Centre and Cancer Council Australia would like to acknowledge the traditional custodians of the many lands and waterways on which we live and work. We would also like to pay respect to Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander Peoples.

About Us

We welcome the opportunity to contribute to the Inquiry into the operation and adequacy of the National Employment Standards (‘NES’) under the *Fair Work Act* (Cth) 2009 (‘FWA’).

Our submission focuses on how well the NES meets the needs of people with a cancer diagnosis (as people with a disability under the Fair Work Act) and those who both work and care for them. We recognise that these issues also affect many others in the community. Unless specified, the term ‘carer(s)’ in this submission is intended to refer to people providing unpaid care to people with cancer and other illnesses, conditions and disabilities. The submission addresses the Inquiry’s Terms of Reference but is structured thematically.

The **McCabe Centre for Law and Cancer** is a Melbourne-based joint initiative of Cancer Council Victoria, the Union for International Cancer Control and Cancer Council Australia and forms part of the Strategy & Support Division of Cancer Council Victoria. The McCabe Centre conducts world-leading legal research, policy development, and capacity building programs to promote the use of law as an essential tool in the prevention and control of cancer in Australia and overseas. The McCabe Centre is a WHO Collaborating Centre on Law and Noncommunicable Disease, and the WHO Framework Convention on Tobacco Control Knowledge Hub on Legal Challenges.

Cancer Council Australia is Australia’s peak national non-government cancer control organisation and advises the Australian Government and other bodies on evidence-based practices and policies to help prevent, detect and treat cancer.

We thank you for your consideration of our submission.

Table of Contents

Executive Summary & Summary of Recommendations

Cancer affects most Australians, often during their working years, with many relying on unpaid care from others in the workforce. The short-term illness focus of the NES does not meet the long, unpredictable needs of people with cancer and their carers — leading to financial stress, job insecurity and avoidable workforce exits that impact those already disproportionately impacted by the burden of cancer. Australians deserve NES protections would reduce these harms, retain experienced workers, cut productivity and health system losses, and deliver broader economic benefits. Our recommendations are summarised below and expanded in our submission.

Recommendations – Summary

Modernise existing sick, carer and compassionate leave

1. Review personal leave (combined sick leave and carer's leave), taking into account the needs of people with serious chronic illnesses and their carers.
2. Allow sick leave for treatment and clinical appointments when the person may be "fit for work".
3. Allow carers to take carer's leave for routine and surveillance appointments.
4. Remove the requirement to exhaust paid leave before accessing unpaid leave.
5. Reduce the burden of evidence requirements for people with chronic illnesses like cancer and carers.
6. Modernise carer and compassionate leave eligibility definitions to reflect diverse caring relationships.
7. Review compassionate leave to better support prolonged end-of-life care and cultural mourning practices.

Protect job and income security for people affected by cancer and other serious chronic illnesses

8. Create an NES entitlement to unpaid sick and carer's leave that can be extended with employer. obligations for return-to-work planning, flexible work and reasonable adjustments.
9. Establish review mechanisms for decisions to refuse new unpaid leave entitlements.
10. Explore international extended paid sick leave and paid carer leave models for serious chronic illness and assess feasibility for an Australian scheme and integration with existing laws and systems.

Promote fair access and reduce inequities

11. Examine extending NES coverage to insecure workers either within the NES or elsewhere in the Fair Work Act.
12. Strengthen against adverse action protections under the Fair Work Act alongside any expansion of NES coverage.
13. Maintain superannuation in the NES and improve access to superannuation.

Support employers and improve public awareness

14. Provide targeted supports to assist small employers maintain staff with cancer and their carers.
15. Increase investment in workplace education to improve awareness and compliance of the NES.

Strengthen data, governance and human rights protections

16. Improve data collection on employment and other work experiences and outcomes for people with serious chronic illnesses and their carers.
17. Introduce a regular statutory 5-year review of the NES to ensure it remains fit for purpose.
18. Adopt a health and human rights approach to undertaking the Inquiry and making recommendations.

Cancer, Work and the NES: Why reform matters

Cancer affects nearly every Australian — either directly or through someone they know. One in two Australians will be diagnosed before 85.[1] Almost one million have been diagnosed in the past decade. The number of cancer cases is expected to increase as Australia's population grows and ages.[2] Cancer is rising among working-age Australians, with more young adults being diagnosed,[3] forcing many Australians to navigate employment alongside treatment and caring responsibilities. The burden of cancer is unequal: people experiencing socioeconomic disadvantage, Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse populations, people with disability and/or mental illness, LGBTIQ+ communities, and those in regional, rural and remote areas face disadvantage in cancer outcomes.[4]

Thanks to sustained investment and advances in cancer care, 72% of people with cancer survive at least five years post-diagnosis, with this being much higher for some common cancers.[5] Many people can remain in or return to work during cancer treatment.[6] Work provides essential income, stability and psychosocial support for people with cancer.[7]

Unpaid carers are central to cancer care. Over 90% of people with cancer rely on at least one unpaid carer, many of whom provide more than 40 hours of support each week.[8] Carers deliver essential practical, medical, emotional, legal and financial assistance — coordinating appointments and medications, monitoring symptoms, providing transport and daily living support, and contributing to treatment decisions.[9] Their unpaid work underpins treatment adherence, continuity of care and cancer survivorship, and enables people to remain at home rather than in hospital, easing pressure on the health system. Unpaid care has an estimated replacement value of $77.9 billion. Most of Australia's three million unpaid carers are of working age, and women — disproportionately in part-time, casual and lower-paid roles — shoulder most caring labour, driving gendered economic inequality.[10] Cancer caring is often episodic, unpredictable and intensive.

> *I think caring is a job. It's just, you're not paid for it — carer*

The National Employment Standards ('NES') — the foundational minimum protections under the Fair Work Act ('FWA') — are crucial to protecting employment, income and workplace fairness during these periods. The importance of work to people with cancer and their carers cannot be overstated given the significant financial burden of cancer: Cancer is financially disruptive — not only due to medical expenses but also lost wages, reduced working hours, increased out-of-pocket- costs and diminished superannuation. This 'financial toxicity' is experienced by many and often without access to appropriate support.[11] Research published in 2025 by Cancer Council Australia found that 98.8% of people with cancer surveyed nationally incurred financial costs following a cancer diagnosis, with disrupted employment or income loss reported by 38.2% of respondents.[12] This is consistent with recent survey research by the McCabe Centre which found all respondents — of Victorians with cancer — incurred out-of-pocket costs: 30% reported a loss of income following their cancer diagnosis and 36% reported a worsening of their financial situation.[13]

The NES has not kept pace with rising rates of chronic illness in Australia,[14] including cancer incidence and survivorship. Consequently, it is poorly aligned with the lived realities of cancer and cancer caring. Compared with people living with other long-term conditions, those with cancer are almost twice- as likely to be out of the workforce.[15] The NES' design is oriented toward short-term illness and acute episodes, not the chronic, fluctuating, and prolonged nature of cancer. Treatment, recovery, surveillance,- and side effects often occur intermittently over many months or years. As a result, limited, discrete blocks of leave are quickly exhausted; many people feel pressure to return to work prematurely, conceal health needs or exit the workforce entirely[16] — despite being able to maintain work connection with adequate leave provisions, flexible work and reasonable adjustments.

> *"After treatment my employer didn't want me back, I felt like I was a replaceable cog not a human"*[17] *— cancer survivor*

Inadequate NES support often forces people with cancer to reduce hours or leave work altogether, compounding financial stress and influencing treatment decisions and long-term -outcomes.[18]

Carer leave is similarly limited and rapidly depleted with many experiencing income loss, reduced hours or temporary/permanent workforce exit to meet care needs: A survey of Victorian carers by the McCabe Centre found that 32% of respondents lost income after becoming a carer: 21% reduced their working hours and 20% used up all paid leave entitlements. Workforce participation fell after caring responsibilities, with full-time work declining from 61% to 54% and part-time work rising from 11% to 14%.[19] Similar data is reported nationally: the 2024 National Carer Survey showed over 20% of carers for someone with cancer experienced loss of work or income; 29.3% reduced their hours; and 31.7% stopped paid work temporarily or permanently due to caring commitments.[20]

> *"Of course I understand, the focus is so much on the patient. But the carer is incredibly important" — carer*

Access to workplace supports is inconsistent and often discretionary with workers in insecure, lower p-aid or less flexible jobs — particularly women, carers, First Nations people, culturally and linguistically diverse communities, people with disability and those outside metropolitan areas — being least likely to benefit from employer provided- support over the NES,[21] deepening inequities.

The productivity toll is also significant: Research shows that cancer related- morbidity alone among working age- Australians (45–64) was estimated to contribute to $15.5 billion in lost productivity ($6.1 billion in paid productivity loss and $9.5 billion in unpaid productivity loss) in 2018–2021 and is projected to reach $16.2 billion for the period 2022-2025 (paid productivity losses accounting for $6.3 billion and unpaid losses of $9.9 billion, respectively).[22]

As the bedrock of workplace entitlements in Australia (together with the national minimum wage), the NES is currently failing to meet the objectives of the FWA and to provide a true, universal safety net that people with cancer and their carers can rely on during periods of significant vulnerability and hardship. Australia is party to multiple international human rights treaties that require the progressive expansion of social protections during illness and when caring for sick family members. It has committed to reducing health related- social inequalities — including through job and income security, universal health coverage, gender equality measures, and laws and policies that recognise and value caregiving.[23] By ratifying these treaties, Australia has agreed to comply with their provisions in good faith and to take necessary steps to give them effect in domestic law.[24]

Accordingly, a modernised NES should recognise the serious, chronic nature and financial impacts of cancer and caring — and the essential role of carers — so no one is forced to choose between health, caring responsibilities and livelihood. The NES should help reduce involuntary exits and support earlier, safer return to work, retaining experienced workers and avoiding productivity losses measured in the billions. Better alignment of leave and job protection with treatment and recovery would also reduce reliance on welfare, minimise early super withdrawals, and prevent downstream health system costs associated with delayed care and financial distress — improving labour force participation and delivering longer term fiscal benefits and materially improving the outcomes for people with cancer and their carers.

How to improve the adequacy and effectiveness of the NES for people with cancer and their carers: Challenges and recommendations for reform

Cancer and caring for someone with cancer does not follow a simple or predictable path. Everyone's experience is different. The current one-size-fits-all, short-term illness focused framework of the NES does not align with this reality. To promote the FWA's objectives — including fairness, job security, gender equality and productive workplaces — the NES must enable flexible, intermittent, and longer-term support with clearer pathways to return-to-work flexibly and with reasonable adjustments.

The NES is intended to underpin a fair and efficient economy, yet current settings contribute to financial toxicity, job loss, and structural disadvantage. Streamlining access to entitlements, clarifying workers' rights, and aligning employment protections with income supports would significantly improve outcomes for people with cancer and their carers while helping them stay engaged in the workforce. We address each issue below.

1. Current combined sick and carer's leave fails to meet cancer-related needs

The NES pools sick and carer's leave into a single bundle of 'personal leave' which can force employees to choose between their own health needs and the needs of the person they care for. Research by the McCabe Centre shows that compared to other countries, Australia's approach to combining sick and carer's leave into a single statutory entitlement is highly unusual.[25]

> *You use up all your own leave. I know after my partner passed away, and I know this has happened to a lot of people that I've spoken to, you take that step back and go "I can breathe now". And then you get sick. And that's happened to me and I was off work for two weeks. If [leave] is separated, it does allow the carer that safety net for themselves should they need to take that time off. — carer*

Carers report insufficient leave to manage their own wellbeing and caring responsibilities, leading them to use annual or long service leave (if available) — entitlements intended for necessary rest and recreation to maintain- a healthy work-life balance and mental and physical wellbeing. Access to adequate paid leave is vital, as carers experience high levels of anxiety, distress and burden — often exceeding the distress reported by people undergoing cancer treatment.[26]

We support the accruable nature of sick and carer's leave under the NES with many people relying on this accrual. Cancer is not a single event, and treatment typically involves numerous appointments over extended periods — such as chemotherapy, radiotherapy, immunotherapy, surgery and ongoing surveillance — as well as fluctuating symptoms like fatigue, pain and cognitive changes that can reduce capacity to work. Research by the McCabe Centre of Victorians with cancer found that 16% of those surveyed used up all their paid leave entitlements, 17% took unpaid leave and 13% had to reduce their work hours. Rates of full-time and part-time work fell from 62% to 54% and 27% to 17%, respectively.[27]

> *I have been an Australian Public Servant for 24 years so fortunately I had accrued a lot of personal leave. The downside is that personal leave includes both sick leave and carers leave. I had to take so much carers leave that it did leave me with far less sick leave, so if I become unwell for an extended period I would be at risk. My husband has had two separate cancer diagnoses with both requiring me to care for him full time for extended periods.*
> *— carer*

> *"I took all of my long service leave, sick leave and annual leave. It means though that I have not had a true holiday for a very long time." — cancer survivor*

When paid leave is exhausted, people with cancer and their carers face immediate income shocks, accelerating financial toxicity and undermining long--term economic security at a time when stability is most critical. These pressures are particularly acute for people with cancer in regional, rural and remote areas and their carers, who must travel long distances for specialist care. This ‘geographic penalty’ accelerates the depletion of leave entitlements and adds substantial out-of-pocket- costs, compounding financial strain.[28]

> *“I live regionally, so in the first phase of my son’s treatment, I had to move three hours away from home. I exhausted most of my sick leave early on in treatment. I was fortunate to have a very good employer, and I was able to work remotely on very flexible hours. When I was back home and back at work, I then had to take my son back for appointments weekly. Sometimes these appointments were 20 minutes long, but they came with a 6 hour round trip in the car, so I needed to take a day off each time. This exhausted any accrued leave really quickly. I used all of my annual leave as well. I began working additional hours over my contract to bank up as Time In Lieu. When I got sick (even just a cold) or if my daughter was sick, it was often a choice about how to best utilise my leave. My husband also had exhausted his leave by this point as well.” — carer*

Some employers offer paid leave and other supports above the NES (e.g. purchased leave, Time Off in Lieu). However, there is no universal access to these enhanced entitlements. Variability is reported in the nature and level of leave and other workplace supports offered to people with cancer and their carers, with extra leave often highly discretionary. Many must therefore rely solely on the NES provisions.

> *“My employer at the time provided 15 days of sick/carers leave and I had 6 weeks annual leave (1 purchased). So, I know that I had extremely good entitlements...and I still ran out.”*
> *— cancer survivor*

> *“I’m so grateful to that particular workplace. I ended up having about eight weeks off work, fully paid. If I didn’t have that, we would have lost our house… It should just be an absolute given that… you get the leave and the support that you need. Because my experience is not what everyone experiences as a carer and worker.” — carer*

> *“I was in a very good position. My employer gave me all the sick leave I needed while going through cancer treatment and then a staged return to work (2 x 4hr days per week) until I was able to return full time. I was also asked to shape the job I wanted to return to. This is an unusual situation but to me was almost the gold standard. For medical appointments, I took time off but made it up, rather than sick leave. Again, not all organisations are able to have this flexibility (mine was a large Australian multi-national and I was a mid-level manager).”*
> *— cancer survivor*

> *“I worked for a small business when diagnosed. Unfortunately, I had only just started the role (6 weeks) when diagnosed. The business could not afford to keep me on in any capacity, so I lost my job.” — cancer survivor*

The current NES sick/carer’s leave entitlement should be reviewed given it has been 16 years since the NES came into full effect. This entitlement is calculated according to an employee’s ordinary hours of work in a week or over a two-week period,[29] and the NES assumes a universal 38-hour week baseline.[30] However, in reality, Australians are working more hours: the Productivity Commission reported a 6.9% increase in hours worked over the 2022-2023 financial year and ABS data shows that actual hours worked hit the highest level ever recorded in December 2025 to over 2 billion hours.[31] This necessitates a review of whether the existing entitlements are adequate to meet contemporary work and caring demands and health realities of Australians, particularly those with serious chronic illness and their carers. Productivity growth in Australia has slowed.[32] Sick and carers leave should allow workers adequate time to recover from illness and caring responsibilities and restores productivity more sustainably than relying on longer working hours including by reducing presenteeism, promoting a healthier, more productive workplace and improved worker retention.[33] Research by the McCabe Centre has found that people with cancer and their carers report returning to work earlier than they wanted to because they needed the income, to their detriment.[34]

> *"If I had had more leave entitlements, I could have taken more time from work to recuperate properly." — cancer survivor*
>
> *"Went back to work after surgery too soon." — cancer survivor*
>
> *"Minimal time off, but struggled to get through some days." — cancer survivor*

Paid sick/carer's leave is not required to be paid out when employment is terminated (unlike annual leave and long service leave entitlements). This strengthens the rationale to conduct an in-depth review of how existing paid sick leave and carer's leave could be reformed to better support people with serious chronic illnesses like cancer and their working carers. Moreover, groups disproportionately impacted by insecure work and less workplace protections also bear an unequal burden of cancer, including people living in the most socioeconomically disadvantaged areas of Australia, Aboriginal and Torres Strait Islander People, and culturally and linguistically diverse communities.[35] Ensuring the NES continues to be an adequate safety net is therefore essential to reducing the inequities in the variability of workplace protections offered, and in the burden of cancer.

Recommendations:

- **Review the NES entitlement to combined paid short-term sick leave and paid carer's leave, taking into account the needs of people with serious chronic illnesses such as cancer, and consider additional flexibility for those living in regional, rural and remote areas, following further consultation with chronic disease and occupational (vocational) rehabilitation experts.**
- **Consider targeted supports (e.g. wage subsidies, government-funded temporary replacement arrangements) for small- and medium-sized employers to maintain employment for workers with cancer or other serious chronic diseases, and their carers.**

2. The "unfit for work" test is not fit for purpose

The NES requires that personal leave can only be taken when a worker is "unfit for work". This does not reflect the realities of cancer, where people may be able to work but need time for treatment, monitoring and side-effect management. This binary test is unsuitable for long--term, episodic conditions and often forces people to use annual or unpaid leave or to delay care, harming health- and financial stability. The NES must recognise that fitness for work is not binary and ensure sick leave covers clinically necessary treatment and surveillance.

Recommendation:

Enable sick leave to be used for clinically necessary treatment and other clinically necessary appointments even when the person may be considered "fit for work".

3. Carer leave provisions do not reflect care realities

Carer's leave can only be taken when an immediate family or household member is sick, injured or in an unexpected emergency. Yet cancer carers routinely attend treatment and surveillance appointments and provide essential medical and practical support — coordinating care, navigating hospital systems, assisting with decisions and advocating for patients — none of which is covered if the person with cancer is not deemed sick or in an emergency. This puts strain on carers who may have to use annual leave, reduce working hours or exit the workforce, as discussed above.

Recommendation:

Allow carers to take carer's leave for routine yet clinically necessary appointments, not just in cases of sickness, injury or emergency.

4. Compassionate leave fails to support families and communities

The NES provides two days of compassionate leave for life-threatening illness or bereavement, which is fundamentally misaligned with the realities of advanced cancer, where end--of--life care, vigil and bereavement commonly extend over weeks or months. It also fails to reflect cultural practices: for Aboriginal and Torres Strait Islander peoples, sorry business involves extended collective mourning, and many other cultural communities observe- similarly longer rites.[36] Carers are often also appointed as the executor of the person with cancer's estate, requiring time-consuming- administrative and legal tasks.[37] Two days of leave is inadequate to meet these emotional, cultural and practical demands, leaving many workers reliant on annual or unpaid leave during a profoundly difficult period.

Recommendation:

Review the NES compassionate leave entitlement so it meaningfully supports families affected by advanced cancer, where end-of---life care, cultural mourning practices and estate responsibilities routinely extend beyond two days.

5. Outdated eligibility definitions exclude modern caring relationships

Carers for people with cancer are typically partners, family, close friends or neighbours.[38] Yet carer's leave and compassionate leave can only be taken to care for immediate family members or household members. This excludes extended family, chosen family (friends) and culturally defined kinship relationships, undermining access for First Nations and multicultural communities, LGBTQIA+ people and others. 2025 research by the McCabe Centre found that almost 30% of Victorian carers surveyed were caring for extended family members that are not immediate family members under the NES.[39] Modernising the definition of 'carer' and caring relationships was a recommendation of the Final Report of the Inquiry into the recognition of unpaid carers and should be therefore considered by this Inquiry.[40]

Recommendation:

Modernise carer and compassionate leave definitions and eligibility to reflect diverse caring relationships.

6. Paid leave-first requirement limits control over financial and work planning

The NES requirement to exhaust all forms of paid leave first before taking unpaid leave removes the ability of people with cancer, the families and carers to plan and control how best they manage the costs associated with cancer and cancer caring.

Recommendation:

Remove the requirement to exhaust paid leave before accessing unpaid leave.

7. NES evidence requirements are burdensome

Under the NES, employers may require "reasonable evidence" to substantiate an absence, typically in the form of a medical certificate or statutory declaration. For people undergoing cancer treatment — and for the carers who support them — this requirement can become burdensome, particularly for people with advanced cancer (treatable yet incurable cancer). Cancer care often involves frequent appointments, fluctuating side effects and short, intermittent absences, meaning workers may be asked to provide repeated documentation for the same ongoing diagnosis and treatment plan. This creates a dual burden: people with cancer and their carers must navigate unnecessary administrative tasks during periods of significant physical and emotional strain, while healthcare providers are diverted from clinical care to produce repetitive certification. The existing framework does not distinguish between acute, one-off illness and chronic, clinically predictable treatment pathways, where a single, comprehensive medical statement could appropriately cover multiple absences, until circumstances change warranting further evidence.

> *"The system places a significant administrative and psychological burden on people at a time of acute stress." — cancer survivor*
>
> *"I think the evidence requirements to access personal leave can be made simpler and less onerous." — carer*

Recommendation:

Amend the NES to ensure evidence requirements are proportionate to chronic and ongoing conditions. Enable a single, comprehensive medical statement outlining the expected treatment schedule, appointment frequency and likely fluctuations in capacity should be sufficient to cover multiple related absences, without requiring repeated recertification unless circumstances change to reduce administrative burden on workers, minimise unnecessary demands on healthcare providers, and create a fair, practical evidence framework aligned with the realities of long-term illness and caring.

8. Recognise extended serious illness and caring to project job and income security

(i) Include an entitlement to unpaid sick leave and strengthen unpaid carer's leave to protect job security

The NES currently provides no explicit entitlement to unpaid leave for long-term or chronic illness, leaving workers to rely on unfair dismissal, antidiscrimination and work health and safety laws — none of which guarantee time away from work once the NES's 10 days of paid personal leave is exhausted. For people with cancer and for carers whose responsibilities intensify over many months, this creates significant job insecurity. Without this explicit entitlement, employers cannot or do not offer extended unpaid leave or flexible, staged return-to-work options, leaving workers without protection during treatment.

> *"I expected to feel unwell, lose my hair and be sick. I didn't expect to lose my job."* [41]
> *— cancer survivor*

Cancer treatment commonly involves repeated or prolonged absences for chemotherapy, radiotherapy, surgery, immunotherapy and ongoing surveillance. Treatment can easily span three to six months or longer, particularly for rare or metastatic cancers, and depending on cancer type and stage.[42] Research shows that for some types of cancer, around half of workers who cease work during acute treatment are absent for up to three months, and around three-quarters for up to six months — far beyond what the NES accommodates.[43] When paid leave ends, workers are frequently pushed into unprotected unpaid leave, early retirement, resignation or reduced hours, leading to substantial long-term- financial harm. For example, of those surveyed by the McCabe Centre, 21% of Victorians with cancer took a period of leave of three or more months, or left work, retired, or stopped being self-employed because of cancer, with 43% of this group not returning to work.[44]

Introducing an entitlement to unpaid sick leave within the NES would clarify rights and obligations for workers and employers, reducing uncertainty and reliance on ad hoc arrangements. This leave should be available either as a single continuous period or in flexible, intermittent blocks aligned with treatment cycles and fluctuating symptoms. Expanding unpaid carer's leave (currently only two days per occasion) to a comparable multi-month entitlement — also usable flexibly — would recognise the extended and episodic nature of cancer caring, help prevent forced workforce exits and support safe, staged return-to-work planning.

Extended unpaid parental leave is widely recognised as essential for maintaining labour market- attachment.[45] For equity and consistency, the FWA should similarly enable extended unpaid sick leave and carer's leave in specified circumstances, ensuring workers are not dismissed simply because treatment or caring needs last longer than a few weeks.

These entitlements should include clear expectations of employers, including obligations to consider staged return-to--work options, flexible hours, modified duties- and reasonable adjustments, informed by evidence on recovery after chronic illness or cancer treatment. To be effective, eligibility should extend to full-time, parttime and regular casual employees. International Labour Organization guidance emphasises that care policies should be universal and provide equitable- benefits.[46] Broader coverage would especially benefit groups already facing greater job insecurity, including women, who disproportionately shoulder caring responsibilities during their working years,[47] and so face heightened risks of losing labour -market attachment without extended protections.

Finally, introducing extended unpaid sick and carer's leave into the NES requires amendments to the FWA, including establishing review mechanisms for refusals and aligning unfair dismissal- protections with the defined period of extended leave to ensure genuine job security during serious illness or intensive caring. Unfair dismissal application deadlines are also restrictive for people with cancer and their carers and should be reviewed and reformed to be longer, or existing application deadlines should be more easily extendable.[48]

> *"The leave duration needs to be flexible to meet the needs of a person's illness and treatment regime. Every cancer is different, and every person responds differently. So, there's no one-size-fits-all. 12 months is a really good starting point, but with flexibility…to be broken up into chunks. For instance, when my partner was on treatment (for neuroendocrine cancer) we needed to be in Melbourne, away from home for a month each cycle and I couldn't work, but I could work in between treatment cycles." — carer*

Recommendation:
Establish job protected unpaid leave that can be extended within the NES for people with serious chronic illnesses such as cancer and their carers, modelled on existing unpaid and extended unpaid parental leave entitlements within the NES, and amend other relevant sections of Fair Work Act to ensure alignment of job security protections.

(ii) Explore the establishment of extended paid illness and caring income support within or alongside the NES in social security law to provide income security

Australia rightly recognises the social and economic importance of parenting through comprehensive paid and unpaid parental leave, which provides clear job protection, flexible use and integrated income support. Similar recognition has not been extended to serious illness or long-term caring. As cancer survivorship rises and more Australians work through treatment or caring responsibilities, workplace laws must evolve to offer the same clarity, dignity and security afforded to parents.

Introducing entitlements to extended unpaid leave within the NES is necessary but insufficient. In many comparable countries, long-term illness is supported by national income replacement schemes that enable people to maintain financial stability and stay attached to the labour market. Currently, the NES has no entitlement tailored to prolonged or intermittent illness trajectories, forcing people with cancer and their carers to patch together short periods of leave, rely on employer discretion or exit the workforce altogether.

Other nations offer stronger, structured supports for serious illness and caring for eligible workers:[49]

- Germany: 6 weeks full salary followed by up to 78 weeks of statutory sick pay (about 70% gross salary and up to 90% net salary paid through the national insurance scheme.
- Norway: up to 52 weeks paid sick leave. The first 16 days of leave is employer-funded with the remainder via national insurance at a rate generally equivalent to income but capped at six times the national insurance basic amount.
- Canada: 26 weeks of federal sickness benefits and 27 weeks of job protected medical leave in several jurisdictions.
- United Kingdom: up to 28 weeks of Statutory Sick Pay, with broader access from April 2026.
- Japan: 93 days per family member over their lifetime to care for a seriously ill dependent family member who requires constant care for a period of two weeks or longer.
- Sweden: 100 days to care for a closely related person (not limited to family) with a life-threatening condition, paid at around 80% of the employee's usual salary through social insurance which can be shared by multiple people.
- Mexico: parents of children with cancer can receive up to 28 days of carer leave, renewable for up to 3 years, with a maximum of 364 days paid at 60% of salary through social security.

These models provide viable options that Australia could adapt to stabilise income, secure employment and reduce inequities for people with serious chronic illnesses and their carers. Additionally, the United Kingdom allows small- and medium-sized business owners to claim back costs of statutory parental payments and France provides tax credits for companies that develop family-friends initiatives for workers.[50] Australia should consider similar incentives to encourage workplaces to better support people with serious chronic illnesses such as cancer and their carers.

Dedicated income support is essential, particularly given the difficulties many people with cancer face in meeting eligibility requirements for the Disability Support Pension or NDIS.[51] It is also critical for workers who are currently excluded from NES leave entitlements. Australia's COVID-19 social security response demonstrates that targeted wage subsidy or income- -replacement schemes for people unable to work due to serious health related reasons are entirely feasible- within existing policy and administrative systems.[52]

> *"I was fortunate to have plenty of accumulated sick leave. [It] would have been quite stressful if I did not have paid leave." — cancer survivor*

Recommendation:

Explore extended paid sick leave and carer leave income replacement models, drawing on international best practice, and assess how these social security mechanisms could integrate with existing NES entitlements, private income protection products and the broader social security system. This work should prioritise universality, equity, sustained workforce participation and the prevention of long-term financial toxicity, with a view to developing a dedicated extended paid serious chronic illness and caring scheme delivered within or alongside the NES through social security law.

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9. Misalignment Between NES Coverage and Labour Market Realities

A large share of Australia's workforce — casual employees, digital platform workers, contractors, sole traders and the self-employed — fall outside the full suite of NES entitlements. Job insecurity is a well-established determinant of poor health. Workers in low paid or insecure roles experience greater financial toxicity when cancer disrupts work, due to fewer savings, little or no insurance, and minimal employer provided leave.

We acknowledge that casual employees fall outside the scope of this Inquiry. However, given these vulnerabilities, it is important to consider how protections for workers outside permanent employment can be strengthened. Indeed, the importance of this is reflected in the creation of ‘employee-like’ provisions in Part 3A-2 of the FWA empowering the Fair Work Commission to set minimum standards related to this type of work.[53] Consistent with Australia’s human rights obligations related to the rights to work, social security, health and equality and non-discrimination, there is a strong case for extending some form of paid sick and carer leave- protection to casual employees and other insecure workers either within or alongside the NES. International Labour Organization Conventions and Recommendations emphasise universal and adequate income security for sick workers and those with caring responsibilities.[54]

Several practical options exist to better support workers not covered by the NES: portable paid sick -leave schemes for casual and platform workers; a government backed illness income- support scheme for sole traders and contractors triggered by serious diagnoses; tenure or hours- based minimum entitlements for long---term casuals; and temporary deeming arrangements during active treatment that allow access to leave protections without changing employment status. The concluded Victorian Sick Pay Guarantee provides a viable model for national consideration.[55]

Expanded protections should be paired with safeguards against adverse action — such as loss of shifts, demotion or termination — when workers disclose a cancer diagnosis or caring responsibilities. These measures would better reflect the current labour market and high risks associated with insecure work and the fact that women, First Nations people, people with disability and many culturally and linguistically diverse and regional workers are disproportionately represented in low-paid, insecure -roles.[56]

These approaches recognise the diversity of modern work while ensuring a cancer diagnosis or the need to provide intensive care does not result in immediate financial precarity or job loss for those least protected.

Recommendation:

Examine opportunities for paid leave protections for casual employees and other workers either within and/or alongside NES provisions elsewhere within federal employment law or within social security laws, and subsequently strengthen protection against adverse action related to illness and caring for non-employee workers within the FWA.

10. Maintain superannuation in the NES and improve access to superannuation

We support retaining superannuation contributions across all NES related paid leave entitlements to prevent further erosion of retirement savings for people who must take extended time away from work due to cancer. However, many people with cancer face significant barriers when seeking early access to superannuation to manage treatment- related financial pressures, including restrictive eligibility criteria, tax implications and -long-term impacts on retirement income. Addressing these issues requires not only strengthening the NES but also complementary reforms to superannuation law and practice to ensure fair, timely and equitable- access to financial support for people experiencing serious illness.

Recommendation:

Retain the NES entitlement of employer superannuation contributions on all NES related paid leave and recommend a parallel review of superannuation law to streamline early access pathways for serious illness, minimise adverse tax consequences, and safeguard retirement adequacy for people with cancer and their carers.

11. Improve awareness and understanding of NES rights and obligations

For the NES to advance the objectives of the FWA, it must be widely understood. Research by the McCabe Centre found that workplace legal issues were commonly reported by Victorians with cancer and their carers, and few in either group received information about their rights at work.[57] Consultation with people with cancer and their carers for this submission reveals similar experiences, demonstrating that some workplaces do not understand the impacts of having cancer and/or their legal obligations towards affected employees and their carers:

> *"I was diagnosed with cancer in Jan 2024 and off work for 18 months. After 3 months I had exhausted my sick leave and commenced income protection insurance payments. In January 2025 I was contacted by my manager and asked when I might return to work. As I was still dealing with fatigue and neuropathy following 6 months of chemo which I'd completed in August 2024, I enquired about taking annual and long service leave which was denied. Fortunately, I was still receiving income protection payments until I returned to work in July 2025 and upon my return to work, I was advised by another manager that I needed to use some of my leave."*
> *— cancer survivor*

Recommendation:

Increase investment in workplace education and awareness to support compliance and understanding of workplace rights and obligations as well as education and training on cancer and work so that workplaces can better support people with cancer and their carers, in accordance with the law, and to the best of their ability. This could include development of a Fair Work Ombudsman best practice guide on cancer and work developed in consultation with leading cancer organisations.

12. Strengthen data and governance

To ensure the NES remains fit for purpose and aligned with the objects of the FWA, Australia requires stronger, routine data collection and public reporting on the workplace impacts of serious chronic illness and caring, including cancer and cancer caring. With it, governments, employers, and workers can design targeted reforms that reduce inequities and improve workforce participation for people affected by cancer and their carers. This should include metrics such as leave utilisation, flexible work requests and outcomes, and patterns of unpaid leave use, disaggregated by employment type, gender, age, cancer type and stage, socioeconomic status, and cultural and ethnic identity. This is necessary to identify where supports are effective, where gaps persist, or which cohorts are being left behind.

There is also no mechanism for periodic, holistic, evidence based- review to ensure the NES remain responsive to an ageing workforce, longer cancer survivorship, and evolving work patterns such as casualisation and platform work. The NES must adapt to prolonged and episodic health conditions. A statutory five-year review cycle, drawing on contemporary labour market data, health trends and cancer survivorship evidence, would help ensure the NES remain meaningful, responsive, and aligned with Australia's broader social, economic, and public health objectives-.

Recommendations:

- **Improve data collection on employment and work outcomes for people with serious chronic illness such as cancer and their carers.**
- **Introduce legally mandated 5-year reviews of the whole NES and other provisions of the Fair Work Act to ensure it remains fit for purpose.**

13. Adopt a health equity and human rights approach to the Inquiry and recommended reforms

All aspects of cancer prevention, treatment and survivorship engage fundamental human rights. [58] We urge the Inquiry to adopt a health equity and human- rights---based approach, which is essential to addressing the social determinants of health that drive inequities in cancer outcomes — including financial distress, job insecurity and socio-economic disadvantage — as well as differing experiences of the NES among women, workers over 55, young workers, Aboriginal and Torres Strait Islander workers, culturally and linguistically diverse workers, LGBTIQA+ workers and workers with disability.

This approach is consistent with the purpose of the NES as a universal safety net and with the objects of the FWA, which reflect Australia's international obligations to protect the rights to health, work, non-discrimination, family life, caring responsibilities- and social security.[59] These obligations should inform the Inquiry's deliberations to ensure any reforms meaningfully address the needs of those most disadvantaged.

With respect to Aboriginal and Torres Strait Islander people, the Inquiry should consider how NES entitlements are experienced in practice and ensure that any reforms uphold principles of equity and self-determination. This includes engaging meaningfully with Aboriginal Community Controlled Organisations — particularly Aboriginal Community Controlled Health Organisations and Aboriginal and Torres Strait Islander Legal Services — to ensure reforms reflect community led priorities, cultural safety and the distinct needs of Aboriginal and Torres Strait Islander workers and carers.

We also encourage the Inquiry to endorse the recommendations of the Final Reports of the Inquiry into the Recognition of Unpaid Carers and the Inquiry into Australia's Human Rights Framework to strengthen human-rights protections which would materially improve support for people with cancer and their carers.[60] Any recommended reforms to the NES should strengthen, not weaken, the rights of all workers affected by serious chronic illness such as cancer and their carers.

Recommendation:

Reforms to the NES should strengthen the rights of working people with cancer and their carers, taking a health equity and human rights approach.

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