

18 August 2021

Committee Secretariat
Education and Workforce Committee
Parliament Buildings
Wellington

To the Education and Workforce Committee members,

Holidays (Parent-Teacher Interview Leave) Amendment Bill

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand's retail sector. Our membership accounts for two-thirds of total domestic retail spending. We have consulted our members in preparing this submission.
2. Retail NZ would like to appear before the Select Committee to speak in support of our submission.
3. The Holidays (Parent-Teacher Interview Leave) Amendment Bill proposes to amend the Holidays Act 2003 to allow workers with children to take leave to attend parent-teacher interviews.
4. Retail NZ feels it is incredibly important for parents to attend parent-teacher interviews. However, we do not agree that additional leave provisions are required to enable parents to attend parent-teacher interviews, therefore we do not support this Bill. We strongly recommend that the Bill not proceed and ask the Committee to reject it.
5. There are several issues with this Bill which we have outlined below.

The Bill is not necessary

6. Fundamentally, the Bill is not necessary. Most schools are already making available a range of interview times available for parents, including mornings, afternoons, and evenings. This means that parents can choose a time that suits them and can be worked around their work and social commitments.
7. Employees who cannot attend parent teacher interviews outside their work hours already have alternatives available to them. These include:
 - a. making use of their annual leave to support their children; and
 - b. making use of flexible working provisions; or
 - c. rostered workers can generally choose shifts to suit or swap out shifts with others to get the time off.

Economic impact

8. We have had a strong response from our membership to this Bill. Firstly, regarding the additional economic burden on retail businesses due to ongoing costs increases.
9. The retail sector has already faced significant increases in employment costs due to the recent increasing in sick leave for all employees from 5 days to 10 days. The biggest impact was the decision to not pro rata sick leave to the number of days worked meaning that part time employees receive the same entitlement as full-time employees.
10. Other additional recent increases in costs includes the increase in minimum wage and introduction of the Matariki holiday in 2022.
11. We encourage the committee to seriously consider the economic burden that employers will need to accommodate due to this Bill.
12. Although no costings have been provided by the proponent of the bill, it is possible to estimate the economic impact. While the cost of four hours per parent per child may sound small, it really adds up. In 2020, there were 826,347 students at school. This would translate into 6,610,776 working hours that were lost due to the proposal. This is the equivalent of 3,166 full time workers being lost to the economy.

The bill breaches the Human Rights Act and is discriminatory

13. Given this Bill proposes to provide leave to a certain segment of the workforce over others - those who are parents or caregivers of children. This provides discriminatory effect based on family status and is a prohibited ground of discrimination as per the definition of family status in section 21 (1) (l) of the Human Rights Act 1993.
14. Furthermore, this discriminatory effect also extends to the New Zealand Bill of Rights Act 1990. In particular, section 19 (1) "everyone has the right to freedom from discrimination on the groups on discrimination in the Human Rights Act 1993.
15. We do note the Report of the Attorney-General under the New Zealand Bill of Rights Act 1990, pursuant to Section 7 of the New Zealand Bill of Rights Act 1990 and Standing Order 269 of the Standing Orders of the House of Representatives. We feel given the concerns raised in this report on discriminatory effect based on age and disability that the select committee seek further advice on the points raised above.
16. We would caution the committee in recommending a Bill to second reading and recommending the creation of a discriminatory law that would create unfairness and equity issues with employees who do not have children.

Casual workforce impacts

17. The explanatory statement in the Bill states that "the growing trend of insecure and casualised work is making it particularly difficult for parents in these employment arrangements to take leave" as the reason for this leave being required. While there is no definition of "casual employee" in the Employment Relations Act 2000, the term is normally applied to employees who work on an 'as and when required' basis, such as for one-off business needs or ongoing irregular work.
18. Therefore, those working casually would generally have the flexibility to schedule appointments around work commitments. With casual work being intermittent and irregular, rather than paid annual leave, employers pay 8% annual holiday pay in addition to the employee's gross earnings. This payment is in lieu of paid annual leave and allows casual workers the equivalent of paid time off to attend to personal matters, such as attendance at parent-teacher interview appointments.
19. Therefore, there is no need for the casualised workforce to have this leave given their flexibility around working arrangements.
20. Nor should the assumption that perceived issues in the casualised workforce be extended to the rest of the workforce who have other leave provisions and flexibility allowances.
21. We ask the select committee to consider the exact problem in the workforce trying to be resolved with this Bill and consider other opportunities to promote existing leave provisions for parent-teacher interviews.

The role of government agencies

22. If there is an issue of employers not granting the use of annual leave or flexibility to attend parent teacher interviews. Then the onus is on Employment New Zealand to ensure that employers understand that annual leave can be use by employees for a range of reasons, including to attend parent teacher interviews.
23. We recommend the committee seek advice and evidence from Employment New Zealand/ MBIE in the following areas:
 - a. Is there an issue with employers not granting annual leave?
 - b. Are employers confused about what constitutes annual leave provisions? e.g. a parent teacher meeting
 - c. The actions Employment New Zealand takes to ensure employers are compliant with legislation e.g. education and communication

Recommendation for select committee to seek additional information

24. Parent-teacher interviews are an important part of a child's learning progress, and an opportunity to discuss education performance. Schools offer a range of opportunities and times to meet with teachers. From early morning, and evening meetings, to video conference calls and meetings at times best suited to a family.

25. However, there is no evidence of large-scale disengagement by parents to participate in parent teacher interviews, to utilise meeting options currently available or to make arrangements such as shift changes, modifying hours works, taking a part day annual or unpaid leave to attend parent teacher meetings.
26. We recommend the committee needs to request data from the Ministry of Education on levels of parent participation in parent teacher interviews.
27. From our canvassing of a range of schools we understand they do record participation rates in this area.

Barrier to provide views to committee

1. The vast majority of retail employers support employees with children taking leave to attend parent-teacher interviews. Arrangements can include a change in shifts, modifying hours, or taking part day annual or unpaid leave. Furthermore, this extends to any reason an employee requests leave.
2. Our conversations with our members have identified a significant barrier to feedback to the Committee. Given the submission process requires submitters names to be published on the Parliament website there is fear of backlash on social media by activist groups if employers' express concerns about the bill.
3. This fear of backlash ranges from small and medium to large retail businesses.
4. The most important function of the select committee process is hearing and understanding all views on a respective issue. Given that fear of backlash has been signalled by the retail sector we implore the committee to consider this submission with considerable weighting. This submission does include a range of views and concerns that we have received from the sector.
5. We encourage members to ask their local retailer their view next time they are in a retail store.

Considerations for the select committee

If the Select Committee decides to recommend the Bill proceeds to second reading, the following amendments must be made to the Bill:

Evidence

1. There should be provision to allow an employer to require an employee to produce evidence of the leave entitlement. Evidence of the interview, such as a booking confirmation, may suffice. The onus should be on the employee seeking this leave entitlement to produce evidence of their entitlement to the leave, if required by the employer.

Limit of 4 hours per employee per year

2. The Bill requires an amendment to clarify that parent-teacher interview leave is capped at 4 hours per employee per year and does not mean 4 hours per child for each employee per year.
 - a. This is important as there will be an economic cost to this legislation and employers are already bearing additional labour costs with the doubling of sick leave entitlement, increase in minimum wage and introduction of the Matariki holiday in 2022.

Notice period

3. The notice period of the parent-teacher interview leave must be increased from 3 working days' notice to 14 days' notice to provide more reasonable notice for employers. There should be no issue with this as schools usually provide more than 14 days' notice of parent-teacher interviews. This notice period will allow those who organise shift work and rosters enough time to factor in this leave.

Who should pay?

4. An employer does not choose whether employees have children, and it is not appropriate that the employer foots the bill for additional leave. Instead, if the bill were to proceed, we recommend that the leave be funded by Government, and that employees access it directly, perhaps via MSD.

Conclusion

In conclusion, no evidence has been provided to show that there is a problem that needs to be addressed through the provision of this additional leave. Schools provide several opportunities and times for parent-teacher interviews and employers accommodate leave requests or working arrangement changes for parents who are employees. We strongly urge against the creation and support of discriminatory law that would create equity and unfairness issues for those without children. We do not support this Bill.

I look forward to discussing these points with the Committee.

Kind regards

A handwritten signature in blue ink, appearing to read 'Greg Harford', with a horizontal line underneath.

Greg Harford
Chief Executive