

**AM2024/34**

**Working from Home Major Case— Clerks—Private Sector Award 2020**

**FAIR WORK COMMISSION**

**Variation of an award on the Commission’s own initiative**

**STATEMENT OF DR LISA HEAP**

I, Lisa Heap, of Level 8, 365 Queen Street Melbourne, Senior Researcher for the Centre for Future Work say:

1. I am a Senior Researcher at the Centre for Future Work (“the Centre”). I have held this position since 2024. Prior to taking up this position I was a PhD Candidate and Sessional Lecturer at RMIT University. Prior to that, I held senior positions in the union movement and in industry. I have over 30 years of experience as a labour lawyer and industrial relations practitioner. I am currently Chairperson of the Victorian Government’s Equal Workplace Advisory Council, a body which advises the Victorian Minister for Industrial Relations on policy, designed to achieve gender pay equity and increase women’s workforce participation.
2. I hold a PhD (Law) from RMIT University, a Graduate Diploma in Applied Human Rights from RMIT University, a Bachelor of Laws (Hons-First Class) from Latrobe University, and a Bachelor of Arts (Political Science/Industrial Relations) from the University of Western Australia. I am admitted to practise as a Barrister & Solicitor in the Supreme Court of Victoria & High Court of Australia.
3. I prepared the attached report in collaboration with my colleague, Dr Fiona McDonald. Dr McDonald is the Interim Director of the Centre. Prior to taking the role of Acting Director, Dr McDonald was the Policy Director (Industrial and Social) for the Centre. Dr McDonald commenced working at the Centre in 2022, and is also an Adjunct Principal Research Fellow, at the School of Management, RMIT University.
4. Dr McDonald holds a PhD in Political Science (Industrial Relations) from the University of Queensland, a Master of Social Science (Social Policy) (awarded with distinction) from RMIT

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University, a Graduate Diploma in Counselling Psychology from RMIT University, and a Bachelor of Behavioural Science (Psychology) from Latrobe University. Dr McDonald has over 30 years of professional research experience in labour market, industrial relations, employment and social policy research in a range of academic and industry positions.

5. Annexed to this Statement and marked “LH-1” is a report of 19 August 2025 prepared by me and Dr McDonald for the ACTU on behalf of the Australian Services Union. That report includes:
  - (a) A copy of my full curriculum vitae, at Annexure LH-2;
  - (b) A copy of Dr McDonalds’s full curriculum vitae, at Annexure LH-3
  - (c) A copy of a letter of instruction from the ACTU dated 30 July 2025, at Annexure LH-4.
6. The contents of the report reflect my and Dr McDonald’s specialist knowledge gained through training, study, research and experience. In preparing the report, we made all the inquiries we believed were desirable and appropriate and no matters of significance which we regard to be relevant have been deliberately withheld from the Fair Work Commission.
7. We were provided with a copy of the Federal Court of Australia Expert Evidence Practice Note dated 25 October 2016. We have read, understood and agree to be bound by the practice note and we have complied with it in preparing this report.



9 February 2026

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Signed

Dated

**AM2024/34**

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**ANNEXURE LH-1 TO THE STATEMENT OF DR LISA HEAP**

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# AMENDED Expert Report

## Working from Home

Report prepared by

Fiona Macdonald and Lisa Heap

# Report for the ASU

August 2025

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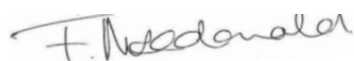
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## Preliminary statement by the authors

We have read the *Harmonised Expert Witness Code of Conduct* and agree to be bound by it.

We acknowledge that

- i. we have read and complied with the Expert Evidence Practice Note (GPN-EXPT) General Practice Note and agree to be bound by it; and
- ii. our opinions are based wholly or substantially on specialised knowledge arising from our respective training, study or experience.



Dr Fiona Macdonald

Acting Director

Centre for Future Work

The Australia Institute



Dr Lisa Heap

Senior Researcher

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## Glossary of specialised terms used

### **Hybrid work**

A hybrid work arrangement whereby an employee works some days of the week in the employers' premises and some days working remotely

### **Remote work**

Work undertaken at a location away from the employer's premises or default worksite

### **Telework**

Work from home and other remote work undertaken away from the employer's premises in which the use of personal electronic devices such as a computer, tablet or telephone (mobile or landline) is central to the performance of the work

### **Work from home**

Remote work or telework undertaken from an employee's home

## Abbreviations used in this report

**ASU** – Australian Services Union

**EU** – European Union

**FWC** – Fair Work Commission

**FWO** – Fair Work Ombudsman

**HILDA** – Household, Income and Labour Dynamics in Australia

**ILO** – International Labour Organization

**OECD** – Organisation for Economic Development and Cooperation

**PC** – Productivity Commission

**UK** – United Kingdom

## Introduction: about this report

1. The matters we have been asked to address in this report are:

A. Literature and research review regarding working from home

Having regard to the body of research and literature regarding working from home, please provide a concise overview of the following:

- a) Mechanisms for an entitlement to work from home that have been employed internationally, with information about aspects that are proving beneficial for improving job outcomes for women, and those that are problematic - with a focus on:
  - Whether other mechanisms have employed a presumption for approval, and if so, the success or otherwise of that feature,
  - Whether other mechanisms include a right to request, and if so, the impact of that inclusion.
- b) Whether alterations in conditions of work for those who work from home is, or has the potential to, impact on equity and inclusion.
- c) Are there any examples available internationally regarding how any potentially deleterious effects of working from home may be managed?

B. Lay evidence in these proceedings

Having regard to the survey undertaken by Swinburne University of Technology as commissioned by the FWC.

- a) How does this evidence compare to the body of existing evidence regarding working from home identified in your answers to questions above?
- b) Are there any common themes or conclusions you can draw from the lay evidence in relation to working from home?

2. To address the matters above, Part A of this report provides an overview of international and Australian peer-reviewed and other publicly available research literature considering prevalence of, access to, reasons for work from home, and the perceived and identified benefits and risks associated with working from home, including where alterations in working conditions occur. The review is selective in as much as we give emphasis to research findings on the post-COVID pandemic

experience where this is available. Some of the discussion in this section of the report draws on and updates an earlier 2025 Centre for Future Work briefing paper on working from home (Macdonald 2025). The literature review also considers formal mechanisms in place for enabling or facilitating working from home by employees, and it examines evidence relating to the ways in which potentially deleterious effects of work for home can be managed.

3. Part B of this report considers the survey of employers and employees undertaken by Swinburne University of Technology as commissioned by the FWC, examining how this evidence compares to the body of existing evidence regarding working from home discussed in Part A. Common themes and conclusions between the survey evidence and the literature are noted.
4. In this report our focus is on work from home where employees perform their normal work tasks away from the employer's premises for all or a portion of the work week. In the literature various terms are used to describe the practice of employees working away from their employers' premises. Terms include telework, remote work, hybrid work, work from home, work at home and homeworking (Birch and Preston 2024; OECD 2023; ILO 2020). In the literature sometimes terms are used interchangeably and sometimes conceptual distinctions are made. In this report our interest is in remote work defined by the ILO as "situations where the work is fully or partly carried out on an alternative worksite other than the default place of work" (ILO 2020, 5).
5. Our discussion of work from home refers to what has been termed "replacement" work from home, which is work from home that replaces time spent at work in a traditional worksite. This is distinguished from "extension" work from home, which is work from home that is in addition to hours normally worked at the employer's premises (Yang et al. 2023)

## A: Literature and research review regarding working from home

### A1: International trends and variations in work from home

6. Internationally, while there has been a general trend towards increased working from home post the COVID-19 pandemic, the prevalence of working from home varies between countries. Comparative research on telework (comprising work from home and other work away from the office) in the European Union (EU) has identified that practices vary with institutional contexts (including the rules relating to telework), environmental factors that include economic structure and digital infrastructure, and gender and other social norms (Sanz de Miguel et al. 2025). Other research identifies a wide range of factors as contributing to variations between countries (Zarate et al. 2024)
7. Differences in economic structures affect the feasibility of work from home through specific sectoral and occupation requirements. Countries with more employment in knowledge intensive services are likely to have more jobs in which telework including work from home is possible. In Australia, FWC estimates based on ABS and HILDA (Household Income and Labour Dynamics in Australia) survey data show the prevalence of working from home varies according to industry. In some industries, between a half and three quarters of employees regularly work from home, including the Financial and Insurance industries (74%), Professional, Scientific and Technical Services (64%), Information Media and Telecommunications (57%), and Education and Training (52%). In contrast, Retail Trade and Accommodation and Food Services industries have the fewest employees working from home: 14% and 6% respectively (FWC 2024, p. 7, Chart 3). Not all differences in the prevalence of teleworking – including working from home – reflect differences in the technical feasibility of this work. Notably, in an international review of the research and data, Touzet (2023) reports that, in both the European Union and the United States, the biggest gap between ability to telework and actual use of this work arrangement is among the predominantly female administrative and clerical support occupations.

8. Internationally, survey findings show employees working full-time in high-paid and high-skilled jobs are more likely than those in lower-paid jobs to have the ability to work at home, either full-time or in a hybrid arrangement (Rubery et al. 2023). Nevertheless, there is evidence that access to work from home arrangements has widened to other occupational groups.
9. Participation in working from home by both men and women increased rapidly during the pandemic and gender gaps in participation in working from home and teleworking narrowed in many countries (Eurofound 2022; Touzet 2023). In Australia, ABS estimates are that more than one in three employed people (36%) usually work from home some days of the week. One in three employees (32%) and almost two-thirds of owner-managers of businesses (63%) usually work from home. More than one in three female employees (34%) and a slightly smaller proportion of male employees (29%) usually work from home (ABS 2024b).
10. In regard to the role of social and gender norms, EU research suggests that more gender-equal countries, with more shared care in households and smaller gender gaps in participation in part-time and full-time work, are likely to have a higher prevalence of work from home (Sanz Miguel et al. 2025). Other international reviews find gender differences in working from home with more women than men working from home prior to and during the COVID pandemic (Eurofound 2022). The OECD review of teleworking found that, in many OECD countries, prior to the pandemic there were large gender gaps in teleworking with men more likely to regularly telework than women (although more women were likely to work from home), despite women being more likely than men to be in occupations in which telework was technically possible. Possible reasons for this include discrimination, women's concentration in administrative and clerical support occupations, management cultures, and women's use of working arrangements such as part-time work to gain flexibility (Touzet 2023).
11. The most common working from home arrangement in many countries appears to be a hybrid arrangement comprising some days in the office and some at home (Eurofound 2022). For example, in the UK more than a quarter (28%) of employed

people work in hybrid arrangements (Office of National Statistics 2024). In Australia, among employees who usually work from home, 40% work from home one to two days a week, just under a quarter (23%) work from home three to four days a week, and 10% work from home five days a week. Others work from home less frequently (ABS 2024b, table 1). Hybrid models, combining work from home with work from the employer's worksite have been found to be particularly appreciated by both employees and employers.

12. International experience is similar to Australia's in regard to reasons workers give for working from home (Aksoy et al. 2022). In Australia, ABS survey responses indicate the main reasons employees usually work from home are to work more flexibly or choose their own hours (30%), to spend less time on travelling or commuting or to save money (15.1%), because of childcare or family considerations or caring responsibilities (7.7%), to catch up on work after hours (21%), or because they operate a business from home or are in a home-based job (10.9%). Other reasons employees work from home include to have fewer distractions and because of health-related reasons (ABS 2024b).

## A2: Benefits, risks and wider impacts of work from home

### Benefits and risks for employees

13. Most published research on the benefits and risks of working from home concerns the work from home experience either prior to, or during, the COVID-19 pandemic. Research on work from home in the post-COVID period is still developing. The earlier (pre-COVID pandemic) context was one in which work from home practices were far less prevalent than they are now. The pandemic period experience was one in which many employees were forced to work from home and many parents with children were combining work from home with full-time care and schooling at home. Differences in broader context suggest some caution should be taken in generalising research findings to the contemporary context.
14. There are some consistent findings from recent, pandemic era and earlier research regarding the potential benefits of work from home arrangements for employees. In

summary, key benefits include increased autonomy, productivity and job satisfaction, better work-life balance, money and time savings, and better access to a greater range of jobs and/or work options work or job options. These benefits and the risks associated with work from home arrangements are outlined in more detail in the paragraphs that follow.

15. Various large studies have found working from home allows employees to work with greater autonomy and flexibility, leading to increased productivity and wellbeing (Chung and Tidjens 2013; Eurofound 2022; ILO 2023). Rubery et al. (2023, 17) review the international research and report that employees in occupations which have experienced the strongest growth in hybrid working arrangements:

... report strong improvements in non-pay features of job quality ... includ(ing) more control over working time, greater ability to balance work and family life, and reduced pressure to work at high speed and to tight deadlines.

16. There have been some findings of some negative impacts on mental health. A recent Productivity Commission (PC 2025) report that international research findings concerning work from home arrangements identified two key pathways through which work from home may affect mental health. These are a lack of a clear demarcation between home and work, and loneliness due to changes in professional and personal relationships. One international review of research on teleworking and mental well-being found mental ill health to be associated with working from home (Shaholi et al. 2024). However, this review was confined to studies undertaken during and prior to the COVID pandemic period. Another large survey found working from home to be associated with increased loneliness for people working full-time from home (Gallup 2023, 8). A 2021 PC paper reporting on an Australian study found those working from home were not more likely to experience loneliness or mental ill-health (PC 2021). Also in Australia, improved mental health due to reduced stress and anxiety and feeling happier are among benefits of working from home reported by employees with a disability (Bissell et al. 2024; Williamson et al. 2023).
17. Saving time and money from not having to commute to work have been found to be significant benefits, especially where travel times are long (Aksoy et al 2022;

Beauregard et al. 2019). In Australia average commute times are growing and are now a little over an hour a day and they are not dissimilar in many other countries (Aksoy et al. 2022; Melbourne Institute 2019). For workers outside cities, in regions and remote areas, not having to travel to work can provide greater access to employment and increased job options. This is also likely to be the case for people who experience barriers to access and/or working in an office or other worksite, including people with a disability (Ameri et al. 2023 ). In Australia the evidence shows that women with children, and other carers, have significantly increased their workforce participation in occupations that have made large transitions to remote work since the pandemic (Wilson and Brooks 2024).

18. Research reviews have found working from home supports better work-life balance for employees with care responsibilities. Work from home can enable parents and other carers to take up jobs with longer hours, to change from part-time to full-time work, and/or take up new career opportunities (ILO 2023; Rubery et al 2023; Eurofound 2022 ).
19. Where work from home is coupled with working time flexibility, international research findings (mainly drawing on the pandemic experience) are mixed in regard to effects on work-life balance (Eurofound 2022; Sanz de Miguel et al. 2025). Indications are that, where employees have a high level of autonomy and control over working hours, the combination of work from home and working time flexibility supports employees to balance work and family, with this leading to higher job satisfaction, higher productivity and higher retention (Chung and Tijdens 2013; ILO 2023; Sanz de Miguel et al. 2025 ). Evidence also suggests that, in other circumstances, flexible working time reinforces risks of blurring boundaries and work-family conflict as it increases the difficulty of keeping work within standard working hours. These problems are more likely where working time flexibility entails uncertainty of working time and/or the employee has low control over working time (e.g. as in an always-on culture in which there is a management expectation of an employee's availability). Researchers reviewing the literature have suggested the chief risk of work from home is "the blurring of boundaries between work and

private life, developing an always-on culture and resulting in burnout” (San de Miguel et al. 2025, 6).

20. Where there is stigma associated with the take-up of work from home arrangements this may mitigate the potential for positive effects on women’s career progression (Rodríguez-Modroño, P, and López-Igual 2021). There is some evidence that “perceived threats to salary and career advancement lead more men than women to renounce teleworking” (Touzet 2023, 7). Conversely, there are indications that women have a greater “willingness to pay”, in terms of wages, for work arrangements – including work from home – that enable them to manage work and family (Touzet 2023, 21). Performance evaluation based on inputs and/or a “culture of presenteeism” (Skinner et al. 2016, 111) are also likely to be factors that undermine potential benefits for women of taking up work from home arrangements. In regard to organisations’ managerial and organisational cultures, Touzet’s (2023) review of international studies, identified teleworking as leading to less work-life conflict in organisations where it is normalised.
21. More generally, the research evidence identifies blurring of boundaries between work and private life as a risk of work from home, contributing to “availability creep” or an “always-on” culture (Rubery et al. 2023, 22). Pre-pandemic, there is evidence of an association between working from home and long work hours, with Chung (2023) showing cross-national differences in long working hours to be closely linked to the prevalence of telework.

#### Benefits and risks for employers

22. Benefits to employees from increased job satisfaction and access to jobs can translate into benefits for organisations including through increased retention, increases in individual productivity and access to a larger talent pool (Bloom et al. 2024; Fenizia and Kirchmaier 2024) There is no good evidence for perceived productivity losses, cited by some employers, arising from employees working from home (PC 2025). Evidence from large multi-country surveys show that working from the office does not necessarily mean greater engagement with employees (Gallup

2023). Forcing people to work from the office can have negative effects on morale and productivity (Graham 2024).

23. Internationally, experts and survey evidence suggests that the quality and competence of managers is more important than working in or away from the employer's worksite for employee engagement and productivity (Chammarro-Premuzic, T (2025)). Working from the employer's worksite does not necessarily mean greater engagement.

#### Broader economic and social impacts

24. We found limited research relevant to the contemporary context that quantifies any broader impacts of work from home on economic and social participation, inclusion, and equity.
25. In so far as work from home arrangements can increase opportunities for economic participation for people who may otherwise have their employment and career options limited by local labour markets, managing care, manage their own health or by other barriers to travelling or working in the office they can be expected to have positive economic and social impacts. Work from home can contribute to more inclusive and gender-equal workforce participation and a more productive economy.
26. A recent OECD review of the effects of work from home on **gender inequalities** at the societal level, including effects on the gender pay gap found effects are mixed, with outcomes likely to be mediated by prevailing gender norms (Touzet 2023). For example, in countries where the male breadwinner model is strong men take on less responsibility for caring. Thus, they are less likely to seek out flexible work opportunities for the purposes of caring. In these circumstances women's participation in work from home arrangements may reinforce existing gender norms and (in)equalities. In a society with more gender-equal work and care arrangements, access to work from home arrangements may support shared care and women's participation in full-time work (Sanz de Miguel et al. 2025). In other words, work from home can reinforce gender inequalities in some circumstances and reduce them in others. Thus, there is a need for models of working time to mediate the

impact of prevailing gender norms where those norms promote inequalities (Touzet 2023, 19).

27. Researchers report that there are relatively few studies that examine the impact of work location – including work from home – on the gender pay gap, and that the evidence from these studies suggest mixed results (Birch and Preston 2024) As they point out:

(w)orking at home may also affect wages, potentially offering a premium if linked to higher productivity or an efficiency wage payment, or a penalty if workers trade off wages for the ability to work at home”. (Birch and Preston 2024, 1).

28. Where work from home reinforces traditional gender stereotypes or is associated with discriminatory treatment by managers, it can have negative effects; effects which could include wage penalties and reduced career opportunities (Rubery et al. 2023 Birch and Preston 2024). On the basis of their recent analysis of Australian HILDA survey data, Birch and Preston (2024) suggest that working at home may contribute to reducing the overall gender wage gap.
29. In relation to the economic participation of **people with disability**, in Australia, ABS labour force participation estimates for people with disability indicate the expansion of working from home during the COVID pandemic could be a factor impacting positively on the employment of people with with mobility and other barriers to working in an onsite office environment.<sup>1</sup> Between 2018 and 2022, while the labour force participation rate for people without disability barely changed (from 84% in 2018 to 85% in 2022), the participation rate for people with disability increased from 53% to 61%. This is a dramatic increase given that between 1993 and 2018 the labour force participation rate for people with disability was relatively stable, with the rate in 1993 being 55% (ABS 2024a). Between 2018 and 2022 the unemployment rate for people with disability declined from 10% to 7% (ABS 2024a).

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<sup>1</sup> Increased support from the National Disability Insurance Scheme (NDIS) may be a significant factor affecting economic and employment participation of people with disability.

### A3: Mechanisms for an entitlement to work from home

30. In this section we report on our review of the international research and literature about mechanisms that have been employed for an entitlement to work from home. We have been asked to provide information about aspects that are proving beneficial for improving job outcomes for women, and those that are problematic - with a focus on:
  - i. Whether other mechanisms have employed a presumption for approval, and if so, the success or otherwise of that feature,
  - ii. Whether other mechanisms include a right to request, and if so, the impact of that inclusion.
31. We provide information about the formal mechanisms used internationally to regulate working from home and describe the features of the regulation. We found little evidence in the literature regarding the impact or effect of any particular regulatory mechanism, including evidence regarding how any particular form of regulation impacts on job outcomes for women. However, we provide an overview of protective elements that have been incorporated into statutory arrangements to protect employees from potential detrimental impacts of working from home.
32. Arrangements to work from home may be informal, by agreement between an organisation and an employee. They could be contained in organisational policies. There may be rights within collective agreements. Our focus is on statutory mechanisms. An examination of informal arrangements and organisational policies is outside the scope of this report. We have addressed where collective bargaining is apparent as part of the formal arrangements regulating working from home, but have not investigated in any detail the incidence or content of collective agreements. We were not able to carry out a detailed examination of the literature regarding entitlements in collective bargaining arrangements internationally in the time available to prepare this report.
33. The main findings from our review of the international literature are:

- i. Since the COVID pandemic there has been a move towards countries adopting more formal mechanisms to regulate work from home (however defined).
- ii. The approaches taken by different countries can be grouped into two broad categories: (a) Facilitative - those that facilitate employers and employees making voluntary agreements to work from home; and (b) Promotional - those that promote work from home through establishing some form of a right to request.
- iii. There appears to be a trend towards countries increasing protections, through statutory measures, for employees working from home.
- iv. We identified three countries where there is a presumption of work from home incorporated into regulatory mechanisms. In each of these countries this presumption applies to a narrow band of employees who have particular circumstances or characteristics.
- v. Some right to request provisions, apply to all employees regardless of their circumstances and others limit access to the right to request to characteristics or circumstances of the employee, such as parental or caring responsibilities or where the employee has an illness or disability.
- vi. In all the jurisdictions with a statutory mechanism for a right to request work from home the circumstances of the employer (business grounds) are taken into consideration when considering whether a request is approved.
- vii. The United Kingdom (like Australia) has recently strengthened the right to request provisions to promote the uptake of employee-initiated flexibility (including work from home) requests.

- viii. The United Kingdom, New Zealand and Ireland (like Australia) allow workers whose request has been refused to have a third party review this refusal.
- ix. In countries with both categories of mechanisms – facilitative and promotional - the statutory provisions aimed at protecting employees have been strengthened since the pandemic. Strengthening includes new declarations that employees teleworking/working remotely must be afforded the same protections as employees who are working at the employer’s premises. These protections include the right to disconnect from work (in some jurisdictions).
- x. There appears to be little evidence documenting the impact of the different regulatory mechanisms. However, there is some relevant evidence regarding employee initiated flexible work arrangements such as the right to request flexible work arrangements (which may include the location of work as a flexibility). This evidence points to the benefits of a right to request working from home that applies to all employees as a way of normalising working from home and therefore reducing stigma associated with it.

#### Mechanisms to facilitate work from home

- 34. Internationally, there are a range of mechanisms used to facilitate and regulate the performance of work by employees away from the employer’s premises or usual work premises. These mechanisms can be informal and ad hoc or can be highly formalised, including through statutory rights and responsibilities.
- 35. Arrangements to work from home can be as simple as a verbal agreement between an individual worker and their manager or supervisor (McCartney 2025, 14). Arrangements may be for ad hoc or one off occasion or could be in place for work on an ongoing basis. Organisations may have employment policies that set out the basic provisions that apply around working away from the employer’s premises. These could be stand-alone policies on working from home or could be part of a suite of

policies designed to facilitate greater flexibility in work arrangements. In Australia, the Fair Work Ombudsman (FWO) has recommended, in their best practice guidance on the subject, that employers create policies addressing flexible work arrangements, including working from home and other locations (FWO 2023).

36. Collective agreements can contain mechanisms for facilitating work from home. While we did not review the literature on the use of collective bargaining for establishing provisions, we note reports of increases in provisions for telework and remote work in collective agreements in some EU countries (Eurofound 2020; Sanz de Miguel et al. 2023, 11-13; Uni Global 2022). In some Nordic countries (Finland, Sweden and Denmark) where there is limited statutory regulation of working from home, and where there is strong engagement of social partners, collective agreements regulate telework (Sanz de Miguel et al. 2023, 11; Sanz de Miguel et al. 2025, 17). Where there is a statutory recognition of telework, but legislation focuses on facilitating collective bargaining, cross-sectoral and sectoral agreements have also been made. This is the case in Belgium, France and Luxembourg (Sanz de Miguel et al 2023, 11; Sanz de Miguel et al. 2025, 18). Agreements also exist at the company or organisational level (Eurofound 2020, 11).

#### Statutory mechanisms

37. Statutory mechanisms regulating work from home can be grouped into two categories:
- i. Facilitative – mechanisms that facilitate employers and employees making voluntary agreements (individual or collective) that provide for work from home arrangements, and
  - ii. Promotional – mechanisms that promote work from home through establishing some form of a right to request work from home.
38. **Facilitative mechanisms** are statutory provisions that recognise, define and set basic provisions for work from home. These contain provisions that facilitate voluntary entry by employers and employees into work from home arrangements. They may also contain rules about reversing or cancelling the agreement.

39. Although not a statute, the *EU Framework Agreement on Telework 2002* (the EU Framework Agreement) was the main reference document for regulating telework in EU countries prior to the COVID pandemic (Eurofound 2020, 8). This light touch facilitative regulation emphasises the principles of voluntary entry (employee and employer) into agreements to telework and reversibility meaning that either party could cancel the agreement (Eurofound 2022; Sanz de Miguel et al 2023, 5). Prior to the COVID pandemic most EU countries followed the provisions in the EU Framework Agreement (Eurofound 2022). EU countries that have adopted facilitative statutory provisions, mainly during or since the pandemic, can be divided into two groups: countries that also have regulation via collective agreements and countries where regulation through collective bargaining is not a strong feature (Sanz de Miguel et al. 2025). Countries where there is statutory provisions and a focus on collective bargaining include Austria, Belgium, Germany, France, Luxembourg, Italy, Spain and Malta (Sanz de Miguel et al. 2025). Countries where collective bargaining is not a feature include Bulgaria, Cyprus, Czechia, Estonia, Hungary, Lithuania, Latvia, Romania and Slovenia (Eurofund 2024; Sanz de Miguel et al. 2025).
40. Outside the EU, statutory provision are established or developing in Latin American and Caribbean countries, albeit often in circumstances where access to reliable technology, an important element facilitating telework and remote work, is not as developed as in the Global North (ILO 2021). Latin American and Caribbean countries that have facilitative statutory provisions include Argentina (Legal Regime of Teleworking Contract ('Teleworking Law') No. 27 555), Mexico (Federal Labour Law and Remote Work Regulations), Brazil (Consolidation of Labour Laws CLT), Chile (Distance Working and Teleworking Law (No 21.0220), Peru, Costa Rica, Panama, Ecuador, El Salvador, and Paraguay (see ILO 2021).
41. The Philippines also has facilitative provisions for telework (Telecommuting Act -"DO 237-22").
42. **Promotional mechanisms** have been adopted in several countries. These are statutory mechanisms that promote worker initiated changes to work arrangements through mechanisms for a "right to request". Those countries with a statutory right

to request work from home can be divided into those where the right to request applies to all employees and those where the right to request work from home is related to a particular characteristic or circumstance of the employee.

43. *Mechanisms covering all employees*

- i. *New Zealand*: Under the Employment Relations Act 2000 all employees have the right to request a flexible work arrangement which includes remote work. The employer must consider the request in good faith but can refuse this request. An employee can take their concern about the employer's refusal to mediation (Employment New Zealand 2025).
- ii. *United Kingdom*: Flexible work provisions (which include the right to request work from home) were extended in 2024. These provisions now mean that any employee from the first day of employment can request to work from home. Employers have a right to refuse this request if they have good business reasons and after handling the request in a reasonable manner. Employees can take a refusal to the tribunal where they believe the request was not handled reasonably (UK government, undated)
- iii. *Ireland*: There is right to request remote work for all employees. Employers must follow a Code of Practice when dealing with requests. Employees can take disputes regarding refusal of requests to the Workplace Relations Commission (WRC no date).
- iv. *Portugal*: All employees have a right to request telework if the functions of the position allow for this. The employer can refuse the request but must justify their decision. There is what amounts to a default right to telework for employees who have children up to 3 years (can be extended to up to 8 years in particular circumstances) or where the employee is a victim of domestic violence (de Oliveira Carvalho 2022).

44. *Mechanisms applying to employees with certain characteristics or circumstances*

- i. Croatia: There is a right to request to work away from the employer's premises on a temporary basis in specific circumstances related to illness or disability, pregnancy, care of young children or care for family member or person living in the employee's household. The employer must consider and substantiate their response (Sanz de Miguel et al. 2023, 6). All civil servants have a right to request offsite or remote work if organisational and technical requirements are met (Republic of Croatia 2024).
- ii. Greece: There is a right to request telework when there is a documented risk to the worker's health (where the employee has a particular disease). The employer can reject the request on basis of special nature of the employee's duties or a lack of a documented risk to the employee's health (Sanz de Miguel et al. 2023, 6-7).
- iii. Poland: A right to request remote work is available to any employee who is pregnant, raising a child (up to 4 years old), is caring for a family member or a person in their household, is disabled, is the parent of a child with a disability. The employer can only refuse remote work in these circumstances if it is impossible to perform the employee's work remotely (Republic of Poland undated). This provision comes close to a default right to remote work for those who have the characteristics or circumstances proscribed.

#### Protections for employees from deleterious effects of working from home

45. Our review of the international literature was undertaken with a view to identifying any examples available internationally regarding how any potentially deleterious effects of working from home may be managed.
46. We identified some of the main potential deleterious affects of working from home as being:
  - i. The potential for overwork and inability to disconnect from work due to blurring of boundaries between work and non-work time. This risk is associated with unclear working time boundaries and is higher where employees have do not have control over working hours.

- ii. The potential for work from home to contribute to inequalities in work where it is confined to a subset of the workforce (e.g. those with family or caring responsibilities) and therefore has a “stigma” associated with it.
47. Regulatory mechanisms being used to mitigate the effects are
- i. Increased protections and rules in work from home regulation (both facilitative and promotional) setting out the responsibilities of employers and employees that must be included in work from home arrangements.
  - ii. Right to Disconnect – specific legislation incorporated into telework and remote work regulation in some countries placing boundaries around hours of work and to manage expectations that employees working remotely will be available outside work hours.
48. The literature shows that a variety of protections have been incorporated in statutory mechanisms to protect employees from some of the potential downsides of working from home we identified and discussed in section A2 of this report .
49. Protections include providing definitions of telework or remote work to clarify the status of the work and the status of the employee performing the work. In some countries there is an explicit statement that remote workers should be able to enjoy the same rights and protections as other employees (ILO 2021; Eurofound 2022). In other countries there is no such statement. It is not known if this means in effect that working conditions can be less for employees in work from home arrangements.
50. Concerns about remote work and other flexible working arrangements impacting negatively on employees’ working hours has led to investigations regarding the intersection of hours and work location (European Commission 2024). In some countries working hours laws do not include specific provisions for working from home. In others, there are working hours provisions contained in specific laws for remote or telework that are intended to put boundaries around out of hours work (Eurofound 2022) and in some cases require additional record keeping of working hours (ILO 2021). The EU is currently discussing a directive on the right to disconnect

and fair teleworking that would address the ‘always-on’ work culture, that may be associated with telework and provide safeguards to ensure increase digitalisation does not weaken workers’ rights where working anytime can become an expectation (European Commission 2025). Countries where there have been specific right to disconnect provisions included in telework or remote work laws include Costa Rica, Chile, Argentina, Mexico, Paraguay, Colombia, Cyprus, Greece, Luxembourg.

51. Other protections included in laws regarding working from home include rules around when parties can withdraw from working from home arrangements including, clarifying employer responsibility for providing or paying for equipment and tools to perform work, ensuring employees’ work health and safety and managing concerns regarding data protection and employee privacy (Eurofound 2022; ILO 2021).

#### Conclusion on mechanisms

52. In some countries there has been an evolution from a focus on the principles of voluntariness and reversibility to an approach promoting the uptake of working from home through a right to request mechanism. This is true in a number of EU countries as well as in the United Kingdom, Ireland, New Zealand and Australia. In other countries the principle of voluntariness is reinforced and the statutory rules set out the minimum requirements to be contained in working from home agreements.
53. We were asked to consider if any mechanisms have employed a “presumption for approval”. We have taken this to mean a mechanism that in effect provides no opportunity for the employer to refuse an employee’s request to work from home, unless possibly in exceptional circumstances. In Poland and Portugal (described above), a presumption is present in relation to employees who are pregnant, have caring responsibilities or who have disabilities or care for someone with disabilities. In Portugal being a victim of domestic violence also qualifies the employee for this presumption.
54. In Angola a presidential decree passed in 2022 (Presidential Decree No. 52/22) established legal provisions regarding telework for all employees. There is a default

right to telework for employees who are pregnant with health complications, have a health condition not compatible with onsite work, care for a child under five years of age, or care for a disabled dependent (with significant level of disability).

55. We have found scant literature that provides evidence setting out the benefits or the problems associated with any mechanism in relation to **job outcomes for women**, other than the literature we have cited in section A2 of this report.
56. In relation to the impact of the right to request mechanisms, we can draw on literature regarding the right to request flexible work arrangements (see for example Bird and Brown, 2018; Charlesworth & Campbell, 2008; Cooper & Baird, 2015; New Zealand Government 2012) to conclude that a right to request working from home that applies to all employees, regardless of their personal characteristics or circumstances may be beneficial.
57. In the United Kingdom (UK) right to request laws were introduced to increase competitiveness and support working parents in 2003. These provisions provide the right to request to parents and carers of children. These (UK) provisions were extended to others with caring responsibilities over time. In New Zealand the right to request flexible work arrangements for the purpose of caring for any person were introduced in the *Employment Relations Act 2000 (NZ)* in 2005. In Australia right to request provisions for parents and carers were included in the *Fair Work Act 2009 (Cth)* when it came into operation in 2010.
58. Criticisms regarding the effectiveness and limitations of both the UK and Australia right to request provisions have resulted in changes in each of these jurisdictions. In 2013 the UK provisions were extended to all employees and in 2024 changes were made to ensure employers more dutifully considered employee requests and to remove the 12 month qualifying period. In Australia those who could make a request were extended in 2013. Further amendments to the Fair Work Act via the *Secure Jobs, Better Pay Act 2022 (Cth)* have moved the right to request to enforceable rights by including dispute resolution provisions utilising the Fair Work Commission and

placing more rigorous requirements on employers to dutifully consider employee requests (Orr, 2025).

59. In Australia, prior to changes made in 2022 that expanded access to the right to request, limitations on the categories of persons who could make a request were criticised as unnecessarily restrictive (Australian Human Rights 2012; Pocock et al. 2013). Concerns have also been expressed about tying of employee initiated flexibility (including spatial flexibility) to caring responsibilities. These concerns include that limitations reinforce a “flexibility stigma” where flexible work arrangements are not normalised within the workplace context and result in managers and co-workers treating those who access them less favourably (Chung, 2020, 522).
60. Our review of the international literature indicates that where provisions are most effective, (i.e. where there is broad uptake and accessibility) is where provisions normalise the practice of worker initiated changes to work arrangements. This is likely to be where there is a national policy or framework promoting flexibility and where access to arrangements are not linked to or conditional on the need to care (Brega, Jarvonik, Leon, & Yerkes, 2023).

#### A4: Potential impacts on equity and inclusion of alterations in conditions of work

61. Alterations in work conditions with the adoption of work from home arrangements include alterations that occur due to the application of formal rules, content and implementation of agreements, management practices and/or organisation policies.
62. As identified in this report, work from home can be associated with blurring boundaries between work and life and with longer working hours, both of which are likely to have negative impacts on employees with family responsibilities in particular which in turn is likely to contribute to increased gender inequalities. Thus, alterations in work conditions that entail employer-mandated increased flexibility in working time (such as extending the span of the normal work day) could have negative impacts on equity and inclusion. Evidence has shown women with care responsibilities manage work demands by reducing employment hours to part-time

roles, and/or declining/not pursuing higher-paid roles (Rubery et al. 2023). These responses contribute to the work and gender pay gaps that emerge for women following childbirth as well as to the early reluctant retirement of older women from work.

63. The potential positive effects of work from home on equity and inclusion include increased economic participation, take up of full-time employment and increased career options for workers with care responsibilities, older workers and people with disability or health conditions. These may be undermined where there are penalties associated with this work arrangement. Potential penalties include where there are “trade offs” in conditions (for example, trade offs that result in reduced access to overtime pay) for employee access to work from home. Other changes in work conditions that could potentially impact negatively on equity and inclusion include where those that introduce a wage penalty for work from home, for example where wage increases are foregone for access to work from home arrangements.

## Part B. Lay evidence in the Clerks – Working from Home Survey

64. We conducted a preliminary examination of the lay evidence provided in the *Clerks – Working from Home Survey report* by Swinburne University of Technology commissioned by the Fair Work Commission, having regard to how this evidence compares to the body of existing evidence regarding working from home identified in Part A of this report and noting any common themes or conclusions that can be drawn from the evidence in relation to working from home. Our investigation was preliminary due to time constraints in preparing this report.
65. Our examination of the *Clerks – Working from Home Survey report* suggests that the survey findings broadly align with those in the international literature including in relation to findings that:
  - i. Hybrid work arrangements are evolving as the most common form of working from home.

- ii. Additional working hours are being worked by those working from home. The working day is also being extended with additional hours occurring prior to 7am and after 7pm.
- iii. There are some employees who want work from home who are either denied access to it, or do not make a claim for work from home, even though they would like to.
- iv. Some organisational practices around working from home normalise working from home making it available to all employees whilst others link access to individual demographic characteristics and/or personal circumstances of employees.
- v. Accommodating personal circumstances (pregnancy, disability, carer responsibility, age) was a secondary benefit of working from home cited by employees. The main benefits for employees were time saved, productivity/performance, and financial savings.
- vi. The gendered difference in relation to the impact of working from home on “household management” reflect the gender norms in society.
- vii. Employers’ beliefs or perceptions that working from home will have negative impacts on productivity and/or work engagement are preventing some employees from accessing work from home arrangements.
- viii. The approach taken by managers to working from home is an important component in whether the arrangement is seen as successful.
- ix. The need for the employer to provide suitable equipment to facilitate working from home was identified by both employers and employees.

66. Conclusions we can draw from the lay evidence include that:

- A work from home clause that applies to all employees (regardless of demographic characteristics and/or personal circumstances) is preferable. This

would accommodate the needs of more employees and assist in normalising working from home. Thus, ensuring that working from home is not seen as something that only those with parenting or caring responsibilities do. This will be an important step in promoting equitable work arrangements.

- Any award clause should seek to avoid reinforcing a correlation between long and unsociable hours and working from home.
- An award clause should address issues such as employer provision of equipment and matters associated with data and privacy of employees.

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**AM2024/34**

**Working from Home Major Case— Clerks—Private Sector Award 2020**

**FAIR WORK COMMISSION**

**Variation of an award on the Commission's own initiative**

**ANNEXURE LH-2 TO THE STATEMENT OF DR LISA HEAP**

## **Lisa Heap**

I have over 30 years experiences as an industrial relations practitioner and labour lawyer with a focus on the lived experience of women workers and addressing gender inequality at work.

I am currently the Chairperson of the Victorian Government's Equal Workplaces Advisory Council (EWAC). The EWAC advises the Victorian Minister for Industrial relations on policy designed to achieve gender pay equity and increase women's workforce participation.

My PhD in Law was a socio-legal analysis of regulatory approaches designed to prevent gender based violence and harassment at work. I examined new Australian regulatory approaches considering the institutional and structural drivers of gender-based violence and harassment at work.

### **Qualifications**

- PhD (Law), RMIT University
- Graduate Diploma in Applied Human Rights – Vice Chancellor's Honours List, RMIT University
- Bachelor of Laws (Hons -First Class), Latrobe University
- Bachelor of Arts (Political Science/Industrial Relations), University of Western Australia
- Admitted to practise as a Barrister & Solicitor in the Supreme Court of Victoria & High Court of Australia.

### **Employment**

<b>2024</b>	Senior Researcher , Centre for Future Work at the Australia Institute
<b>2022-2023</b>	Technical Adviser Pay Equity, New Zealand Nurses Organisation & New Zealand Public Service Association (Consulting)
<b>2018- 2024</b>	Doctoral Candidate & Sessional Lecturer, RMIT University
<b>2015-2021</b>	Principal Adviser Pay Equity New Zealand Public Service Association (Consulting)
<b>2015 – 2018</b>	Lead - Women's Rights and Safety at Work, Victorian Trades Hall Council
<b>2007 - 2015</b>	Executive Director, Australian Institute of Employment Rights
<b>2007 -2015</b>	Legal Officer, Civil Air Operations Officers Association (Part-time)
<b>2005 to 2007</b>	Assistant Branch Secretary, ASU Victorian Authorities & Services Branch
<b>2002 to 2005</b>	National Co-ordinator Legal & Industrial Services Australian Services Union (National)
<b>2000 to 2002</b>	Articled Clerk/Solicitor, Slater & Gordon Lawyers -Industrial & Public Interest Unit

- 1996 to 2000** Federal Women’s Officer, Australian Education Union
- 1994 – 1996** National Industrial Officer, Australian Services Union (National)
- 1992 – 1994** Branch Industrial Officer, Australian Services Union (Victorian Authorities & Services Branch)
- 1991 – 1992** Industrial Advocate, State School Teachers Union of Western Australia
- 1988 – 1991** Industrial Officer, Construction Mining and Energy Worker’s Union (WA Branch)

### **Commissioned research**

- *Building Gender Equality: Victoria’s Women in Construction Strategy 2019-2022*, Victorian Government, (2019).
- *Documenting the Dimensions: An examination of the work, contextual complexity, and expectations of the roles of Principals and Deputy Principals in Western Australian Public Schools*, Australian Institute of Employment Rights, (2013)

### **Publications**

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## Submissions & Reports

**Heap L** (2025) *Briefing Paper: Restoring public sector capability through investment in public service employees*, Centre for Future Work at the Australia Institute.

**Heap L & Peetz D** (2024) *Submission to Industrial Relations Victoria Inquiry on Restricting Non-Disclosure Agreements (NDAs) in Workplace Sexual Harassment Cases*, Centre for Future Work at the Australia Institute.

**Heap L (2024)** *Doing it tough: How Australians are experiencing the cost of living crisis*, Centre for Future Work at the Australia Institute.

Macdonald F & **Heap L** (2024) *Submission to the House of Representatives Standing Committee on Employment, Education and Training Inquiry into the Digital Transformation of Workplaces*, Centre for Future Work at the Australia Institute.

**Heap L** (2024) *No Blood-No Job: Australia's privacy laws and workers' rights*, Centre for Future Work at the Australia Institute.

**Heap L** (2022) *Australian Parliament Joint Standing Committee on Treaties Inquiry into the International Labour Organization Convention concerning the elimination of violence and harassment in the world of work (No. 190)*.

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**Heap L** (2012) *Workplace Culture and Bullying - A submission by Australian Institute of Employment Rights to the Standing Committee on Education and Employment*, Australian Institute of Employment Rights

## Books and Book Chapters

**Heap L (ed)** with Macdonald F and Joyce C (2025) *Solving the Crisis: Raising the living standards of Australian Workers*, Centre for Future Work at the Australia Institute.

**Heap L & Stanford J** (2025) Introduction in Heap et al (eds), *Solving the Crisis: Raising the living standards of Australian Workers*, Centre for Future Work at the Australia Institute.

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**Heap L** (2013) 'Taking the High Road: A Future that Works for Australian Workers' in *Pushing Our Luck: Ideas for Australian Progress*, Centre for Policy Development.

Jerrard M & **Heap L** (2009) 'Ensuring Equal Rights: The role of trade unions' in Strachan G, French E and Burgess J (Eds) *Managing Diversity in Australia*, McGraw Hill Australia Pty Ltd.

### **Professional Leadership**

- 2024 -2025 Secretary, Association of Industrial Relations Academics Australia and New Zealand (AIRAANZ)
- 2018 & 2019 Technical Adviser -Worker's Group, Standard-Setting Committee, ILO Convention C190
- 2017-2020 Member Victorian Ministerial Council on Women's Equality
- 2015-2017 Parliamentary Library Fellow – Victorian Parliamentary Library
- 2014-2020 Professor (Adjunct) Australian Catholic University
- 2009 Technical Adviser ILO – Multi-National Enterprises Initiative, ILO Geneva
- 1999 & 2000 Australian Worker's Representative – Standing -Setting Committee, ILO Convention C183

### **Community & Industry Governance**

- 2024 - Chairperson, Victorian Government Equal Workplaces Advisory Council (EWAC)
- 2024 - Member, Board of Directors, Gender Equity Victoria (GenVic)
- 2007 - 2013 Treasurer, Board of Directors, Big West Festival

**AM2024/34**

**Working from Home Major Case— Clerks—Private Sector Award 2020**

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**ANNEXURE LH-3 TO THE STATEMENT OF DR LISA HEAP**

## Fiona Macdonald CV

My professional experience as a labour market and employment researcher commenced in the 1990s and since that time my research has primarily concerned the changing nature of employment and the role of work in people's lives. My PhD in industrial relations was a comparative workplace relations study adopting socio-legal and ethnographic methods, My 2021 sole-authored book *Individualising Risk: Paid Care Work in the New Gig Economy*, was a study of the political economy of disability support work in the NDIS.

Gender equality, work and family, work-life balance, work arrangements and working time have been consistent themes of my research over several decades. This research, has included ethnographic and socio-legal studies and labour market analyses in the Australia, UK and Canadian contexts.

### Qualifications

PhD in Political Science (industrial Relations), University of Queensland  
Master of Social Science (Social Policy), (awarded with distinction) RMIT University.  
Graduate Diploma in Counselling Psychology, RMIT University  
Bachelor of Behavioural Science (Psychology), Latrobe University.

### Employment

Nov 2024-present	Acting Director, Centre for Future Work at the Australia Institute
2022-2024	<i>Policy Director (industrial and Social)</i> Centre for Future Work at the Australia Institute
2015-2022	<i>Vice-Chancellor's Senior Research Fellow, School of Management, RMIT University (four year appointment)</i> <i>Australian Research Council DECRA Fellow, School of Management, RMIT University</i>
2014-2015	<i>Research Fellow, School of Management, RMIT University.</i>
2012-2014	<i>Research Fellow, Gender Equality and Decent Work, Centre for Work + Life, University of South Australia.</i>
2009-2012	<i>Panel Member, Victorian State Services Authority Panel of Grievance Review and Workplace Investigations Officers and Independent Chair, Victorian Public Service Tripartite Work Review Panels (contracted roles).</i>
2007-2012	<i>Self-employed research consultant</i>
2007	<i>Research Associate (project contracts), School of Political Science, University of Queensland; Centre for Applied Social Research, RMIT University; and Centre for Citizenship and Human Rights, Deakin University.</i>
2005-2006	<i>Senior Researcher and Organisational Consultant, URCOT, Melbourne.</i>
2001-2004	<i>Executive Director, Equity Research Centre Inc.</i> Research organisation and industry advisory body to the Victorian Government on equity and diversity in vocational education and training.
1994-2001	<i>Research and Policy Projects Manager and Future of Work Research Project Officer, Social Action and Research Division, Brotherhood of St Laurence, Melbourne.</i>
1987-1994	<i>Vocational counsellor and sessional lecturer, Social Science, RMIT; Industry Liaison Officer, TAFE Industry Research Unit, and Research Officer, RMIT Equal Opportunity Unit.</i>

## Academic Research Awards

- 2018 Research Excellence Award, School of Management, RMIT University
- 2017 Vice-Chancellor's Award for Research Impact – Early Career Researcher Award, RMIT University
- 2016 Early Career Researcher Research Excellence Award, College of Business, RMIT University
- 2015 2016-2019 Australian Research Council Discovery Early Career Researcher Award
- 2008 Vic Taylor Award for Best Paper awarded by the Association of Industrial Relations Academics of Australia and New Zealand (AIRAANZ) for Charlesworth, S and Macdonald, F. 'The Unpaid Parental Leave Standard: What Standard?' 21st Conference of AIRAANZ, Melbourne, 6-8 Feb.

## Relevant commissioned research (to 2022)

- 2018 'Where Secure Employment meets Client Needs' Workforce Innovation Project for Greenacres Disability Services. Role: Sole researcher.
- 2018 *Disability Skills Portfolio Project*, for National Disability Services. With Assoc. Prof. Darryn Snell and Assoc. Prof. Victor Gekara, RMIT. Role: Joint Chief Investigator.
- 2017 *Scoping review on informal care, social protection and gender: policy implications for countries in the WHO Western Pacific Region, particularly in relation to low to middle income countries*, World Health Organisation Western Pacific Region. Role: Lead Chief Investigator.
- 2017 *NDIS Workforce research*, Health and Community Services Union, United Voice and Australian Services Union. With Natasha Cortis (UNSW), Bob Davidson (Macquarie University) Role: Joint Chief Investigator.
- 2016 *Discovery Early Career Researcher Award*, Australian Research Council. 'Workforce challenges under cash-for-care models: Regulating for quality jobs in flexible care systems, Australia's NDIS in comparative perspective. Sole chief Investigator. (3 years).

## Publications

### Sole-authored book

- 2021 **Macdonald, F** *Individualising Risk: Paid Care Work in the New Gig Economy*, Singapore: Palgrave Macmillan. <https://www.springer.com/in/book/9789813363656#aboutBook>.

### Refereed journal articles

- 2024 **Macdonald, F** 'Care policies' *Journal of Australian Political Economy*, No. 92, pp. 86-97.
- 2024 Jericho, G, Joyce, C, **Macdonald, F**, Peetz, D and Stanford, J 'Labour Policies' *Journal of Australian Political Economy*, No. 92, pp. 35-56.
- 2024 Maulupeivao, B, O-G, Ravenswood, K, and **Macdonald, F** Reframing approaches to workplace violence towards Pacific homecare workers in New Zealand and Australia, *Journal of Industrial Relations* Online First <https://doi.org/10.1177/00221856241270989>
- 2023 Charlesworth, S and **Macdonald, F** 'Collective bargaining and low-paid women workers: The promise of supported bargaining.' *Journal of Industrial Relations*.

- 2021 **Macdonald, F** and Charlesworth, S Regulating for gender-equitable decent work in social and community services: Bringing the state back in. *Journal of Industrial Relations*. 63(4), pp. 477-500. <https://doi.org/10.1177/0022185621996782>.
- 2020 Baines, D, **Macdonald, F** and Stanford, J, Zero-sum social policy: going gig and the Australian National Disability Insurance Scheme. *Studies in Political Economy* 101(1), pp. 17-34.
- 2020 **Macdonald, F** 'Personalised risk' in paid care work and the impacts of 'gig economy' care platform and other market-based organisations. *International Journal of Care and Caring*. 5(1), pp. 9-25. <https://doi.org/10.1332/239788220X15966470624270>.
- 2018 Delaney, A, and **Macdonald, F** 'Thinking about informality: gender (in) equality (in) decent work across geographic and economic boundaries' *Labour & Industry* 28(2), pp. 99-114. doi:10.1080/10301763.2018.1475024.
- 2018 **Macdonald, F** and Charlesworth, S 'Failing to live up to the promise: the politics of equal pay in 'new' workplace and industrial relations institutions' *Australian journal of Political Science*, doi: 10.1080/10361146.2018.1502256.
- 2018 Byrne, L, Roennfeldt, H O'Shea, P and **Macdonald, F** 'Taking a gamble for high rewards? Management perspectives on the value of mental health peer workers' *International Journal of Environmental Research and Public Health* 15(4), pp. 746-758. doi:10.3390/ijerph15040746.
- 2018 **Macdonald, F**, Bentham, E and Malone, J 'Wage theft, underpayment and unpaid work in marketised social care' *The Economic and Labour Relations Review*, 29(1), pp. 80-96.
- 2016 **Macdonald, F** and Charlesworth, S 'Cash for care under the NDIS: Shaping care workers' working conditions?' *Journal of Industrial Relations*, 58(5), pp. 627-646.
- 2015 Charlesworth, S and **Macdonald, F** 'The Decent Work Agenda and the advancement of gender equality: For emerging economies only?' *International Journal of Comparative Labour Law and Industrial Relations*, 31(1): 5-26.
- 2015 Charlesworth, S and **Macdonald, F** 'Women, work and industrial relations in Australia in 2014: The year in review', *Journal of Industrial Relations*, 57(3): 366-382.
- 2014 Charlesworth, S and **Macdonald, F** 'Australia's gender pay equity legislation: How new, how different, what prospects?' *Cambridge Journal of Economics*, 39(2): 421-440.
- 2014 Charlesworth, S and **Macdonald, F** 'Women, work and industrial relations in Australia 2013' *Journal of Industrial Relations* 56 (3): 382-397.
- 2013 **Macdonald, F** and Charlesworth, S 'Equal pay under the Fair Work Act 2009: mainstreamed or marginalised?' *UNSW Law Journal*, 36(2): 1-24.
- 2012 Bailey, J, **Macdonald, F** and Whitehouse, G 'No leg to stand on: the moral economy of Australian industrial relations changes' *Economic and Industrial Democracy*, 33(3): 441-461.
- 2008 Pocock, B, Elton, J, Preston, A, Charlesworth, S, **Macdonald, F**, Baird, M, Cooper, M and Ellem, B 'The impact of Work Choices on women in low paid employment in Australia: a qualitative analysis' *Journal of Industrial Relations*, 50 (3): 475-488.

#### **Book chapters and monographs (peer reviewed)**

- 2024 Hamilton, M, Charlesworth, S and **Macdonald, F** 'A policy blind spot: Informal carers of older people and people with disability or chronic illness' in M. Baird, E. Hill and S. Colussi (eds.) *Make or Break: A Life Course Approach to Work, Care and Family Policy in Australia*, Sydney University Press, Sydney.
- 2024 **Macdonald, F** 'Neoliberal care policies and women's economic inequality' in Philip Toner and Michael Rafferty, eds., *Captured! The Political Economy of Australian Neoliberal Public Policy* (Sydney: Sydney University Press), pp. 175-194.

- 2019 Campbell, I, **Macdonald, F** and Charlesworth, S 'On-demand work in Australia' in M O'Sullivan et al. (eds.) *Zero-Hours and On-Call Work in Anglo-Saxon Countries*, Berlin, Springer Press.
- 2018 **Macdonald, F.** Charlesworth, S and Brigden, C 'Low-paid workers and collective bargaining; the issues in B Creighton, A Forsyth and S McCrystal (eds) *Collective Bargaining under the Fair Work Act: Evaluating the Australian Experiment in Enterprise Bargaining*. Federation Press, Sydney.
- 2018 **Macdonald, F** and Pegg, M 'Contracting out public services, marketisation and wages' in Hardy, T, Stewart, A and Stanford, J (eds) *The Wages Crisis in Australia: What It Is and What to Do About It*, University of Adelaide Press, Adelaide.
- 2017 Charlesworth, S and **Macdonald, F** 'Employment regulation and worker-carers: Reproducing gender inequality in the domestic and market spheres?' Chapter 6 in D Peetz and G Murray (eds) *Women, Labor Segmentation and Regulation*, Routledge.
- 2001 **Macdonald, F** and Holm, S 'Employment for 25 to 34 year-olds in the flexible labour market: a generation excluded?' in L Hancock, B Howe, M Frere and A O'Donnell (eds.) *Future Directions in Australian Social Policy: New Ways of Preventing Risk*, Council for Economic Development of Australia (CEDA), Melbourne:16-24. ISBN 0 85801 254 5.
- 2000 **Macdonald, F** and Siemon, D 'Families, work and welfare', Chapter 10 in P Saunders (ed.) *Reforming the Australian Welfare State*, AIFS, Melbourne, pp. 206-223. ISBN 0 642 39474 1.
- 1999 McClelland, A and **Macdonald, F** 'Young adults and labour market disadvantage?' in Dusseldorp Skills Forum (DSF), *Australia's Young Adults: The Deepening Divide*, DSF, Sydney, 117-134. ISBN 0 958 529 329.
- 1999 Probert, B and **Macdonald, F** 'Young women: poles of experience in work and parenting', in Dusseldorp Skills Forum, *Australia's Young Adults: The Deepening Divide*, DSF, Sydney, 135-158.
- 1998 McClelland, A, **Macdonald, F** and MacDonald, H 'Young people and labour market disadvantage', in Dusseldorp Skills Forum, *Australia's Youth: Reality and Risk*, DSF, Sydney, 103-128'

#### **Major research reports (from 2017)**

- 2024 **Macdonald, F** *Professionalising the Aged Care Workforce: The case for worker registration and a mandatory qualification*, Centre for Future Work, <https://futurework.org.au/report/professionalising-the-aged-care-workforce/>
- 2023 **Macdonald, F** *Inclusive and Sustainable Employment for Jobseekers Experiencing Disadvantage: Workplace and Employment Barriers*, Centre for Future Work. <https://futurework.org.au/report/inclusive-and-sustainable-employment-for-jobseekers-experiencing-disadvantage/>.
- 2023 **Macdonald, F** *Unacceptable Risks: The Dangers of Gig Models of Care and Support Work*, Centre for Future Work. <https://futurework.org.au/report/unacceptable-risks>.
- 2023 **Macdonald, F** *Short Changed: Unsatisfactory working hours and unpaid overtime, 2023 update*.
- 2022 **Macdonald, F** and Douglas, K *Disability support workers and the classification of their work in the Social, Community, Home Care & Disability Services Industry Award*, Centre for People, Organisation and Work, RMIT University. <https://cpow.org.au/disability-support-workers-the-classification-of-their-work/>.
- 2021 **Macdonald, F**, Malone, J and Charlesworth, S *Women, Work, Care and COVID*. Centre for People, Organisation and Work, RMIT University, Melbourne, <https://cpow.org.au/new-research-report-women-work-care-and-covid/>.
- 2020 Charlesworth, S., **Macdonald, F** and Clarke, J *Nature and extent of gender-based violence in individualised disability support & aged care services in Victoria, Scoping Study Report for WorkSafe*

Victoria. Centre for People, Organisation & Work, RMIT University, Melbourne.  
<https://researchrepository.rmit.edu.au/esploro/outputs/report/Scoping-Study-on-Gender-Based-Violence-in/9921970243401341>.

- 2019 Baines, D, **Macdonald, F**, Stanford, J and Moore, J *Precurity and Job Instability in NDIS Support Work*, Canberra: Centre for Future Work at the Australia Institute, Canberra.  
[https://www.futurework.org.au/reports\\_from\\_the\\_front\\_lines\\_of\\_the\\_ndis](https://www.futurework.org.au/reports_from_the_front_lines_of_the_ndis)
- 2019 **Macdonald, F** *Where Secure Employment Meets Client Needs*, RMIT University and Greenacres Disability Services, National Disability Services, Sydney <https://www.nds.org.au/images/news/FINAL-Where-secure-employment-meets-clients-needs-report.pdf>.
- 2019 Snell, D, Gekara, V and **Macdonald, F** *The Disability Skills Portfolio Scoping Project Final Report*, National Disability Services, Sydney, <https://www.nds.org.au/images/news/FINAL-Where-secure-employment-meets-clients-needs-report.pdf>.
- 2017 Cortis, N, **Macdonald, F**, Davidson, B and Bentham, E *Reasonable, Necessary and Valued: Pricing Disability Services for Quality Support and Decent Jobs*, SPRC UNSW, Sydney.

## Professional leadership and engagement

### Professional leadership and engagement

International research partner, UK ESRC-funded international 'Sustainable Care: connecting people and systems' project (2017-2021), led by Prof Susan Yeandle, Professor of Sociology, and Director of CIRCLE (Centre for International Research on Care, Labour & Equalities), Sheffield University, England.

Member, Executive Committee, Association of Industrial Relations Academics of Australia and New Zealand (2017-2019).

Fellow, Future Social Service Institute, VCOSS & RMIT University (2017-2019)

Member, Editorial Advisory Board, International Journal of Care and Caring (2016-present)

Graduate Member, Australian Institute of Company Directors (GAICD) (2016).

Research Collaborator, 'Gender, Migration and the Work of Care' International Research project led by Professor Ito Peng, Director, Centre for Global Social Policy, University of Toronto Canada (2013-2019).

Member, Work & Family Policy Roundtable (W+FPR) comprising 30 researchers from 18 universities and research institutions to promote research to inform good evidence-based public policy in Australia.

Co-convenor, Gender Inequality Research Network (2016-2020), RMIT University.

Acting Director, Centre for People, Organisation and Work, College of Business, RMIT University (2020)

Research Theme Leader 'Working Lives: Uncertainties and Futures', Centre for People, Organisation and Work, College of Business, RMIT University (2016-2021)

Member, RMIT School of Mgt Research Committee & Convenor, Grants Working party (2016-2017)

### Community and industry governance roles

2012-2019 Member, Board of Directors, Brotherhood of St Laurence.

2006-2011 Member, Board of Directors and Chair, Services and Policy Sub-Committee (2008-2011), Wesley Mission Victoria.

2002-2004 Member, Board of Directors, AFL SportsReady Group Training Company.

1998-2004 Member, Board of Directors, Victorian Welfare Rights Unit.

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**AM2024/34**

**Working from Home Major Case— Clerks—Private Sector Award 2020**

**FAIR WORK COMMISSION**

**Variation of an award on the Commission's own initiative**

**ANNEXURE LH-4 TO THE STATEMENT OF DR LISA HEAP**



30 July 2025

Dr Fiona Macdonald

Director

Centre for Future Work at the Australia Institute

Dear Dr Macdonald,

## Expert Report

### **AM2024/34 Variation on the Commission's own initiative – Clerks—Private Sector Award 2020**

The ACTU is the peak national confederation representing affiliated trade unions. We write to you on behalf of The Australian Municipal, Administrative, Clerical and Services Union ('ASU').

On behalf of the ASU, we wish to formally engage you and the team at the Centre for Future Work at the Australia Institute to prepare an independent expert report for use in the proceedings described below.

#### **Background to the proceedings**

The Fair Work Commission ('FWC') is the national tribunal which regulates the content of 'modern awards'. These are instruments which contain minimum terms and conditions of employment for employees. The particular modern award (if any) which covers a given employee is determined by their occupation or the industry in which they work. Together with the National Employment Standards, modern awards provide the safety net for employees covered by Australia's national workplace relations system.

On 29 August 2024, the FWC issued a [statement](#) outlining the commencement of proceedings on the Commission's own initiative pursuant to s157(3)(a) of the FW Act to develop a working from home term in the *Clerks—Private Sector Award 2020* (Clerks Award). The term developed will aim to facilitate employers and employees making workable arrangements for working at home and remove any existing award impediments to such arrangements. This term may serve as a model for incorporation in other modern awards, with or without adaptation.

These proceedings flow from the conclusions of the Modern Awards Review 2023–24 [Final Report](#), in which the Full Bench identified award provisions which require the Commission's priority attention.

Included at **Annexure A** to this letter is a summary and links to the relevant background to these proceedings.

### **Issues in the proceedings**

In a Statement published on 29 August 2024, the FWC identified 8 issues to be addressed in these proceedings. The eight issues are set out in **Annexure B** to this letter.

### **Expert Report**

We wish to formally engage you as an independent expert to provide a written report concerning your expert opinion regarding the development of a working from home term in the Clerks Award.

Your report should be responsive to the terms of this letter and any subsequent request from us. Notwithstanding that the report is requested by us as an interested party, the purpose of the report and your duty as an expert witness is to assist the FWC.

You are not asked to express an opinion in your report as to the appropriateness or otherwise of the variations to modern awards that any party may be seeking in the proceedings.

The matters which we seek your report to address are as follows:

#### A. Literature and research review regarding working from home

Having regard to the body of research and literature regarding working from home, please provide a concise overview of the following:

1. Mechanisms for an entitlement to work from home that have been employed internationally, with information about aspects that are proving beneficial for improving job outcomes for women, and those that are problematic - with a focus on:
  - Whether other mechanisms have employed a presumption for approval, and if so, the success or otherwise of that feature,
  - Whether other mechanisms include a right to request, and if so, the impact of that inclusion.
2. Whether alterations in conditions of work for those who work from home is, or has the potential to, impact on equity and inclusion.
3. Are there any examples available internationally regarding how any potentially deleterious effects of working from home may be managed?

#### B. Lay evidence in these proceedings

We will provide you with the [survey](#) undertaken by Swinburne University of Technology as commissioned by the FWC.

Having regard to the survey:

1. How does this evidence compare to the body of existing evidence regarding working from home identified in your answers to questions above?
2. Are there any common themes or conclusions you can draw from the lay evidence in relation to working from home?

## **Formal matters**

Please ensure your report includes a glossary of any specialised terminology, a bibliography, and utilises a uniform method of citation throughout. Pages and paragraphs should be numbered. Please include any statistical information, data and research relied on, as you would in accordance with usual academic research practice.

Annexed to this letter at **Annexure C** is the Federal Court Practice Note GPN-EXPT on the use and conduct of expert witnesses, issued under Rule 23.12 of the Federal Court Rules 2011. Although the Practice Note does not formally apply to the proceedings, we nonetheless ask that you review it before commencing work on the report, that you treat yourself as bound by it and that your report note this by complying with the formalities in section 5.2 of that Practice Note.

Upon receipt of your report, we will prepare a draft written statement for your approval attaching your report, your curriculum vitae (setting out the study, training and expertise that established your expertise in relation to the issues raised by these instructions) and this letter of instruction (together with any supplementary instructions). Your report and statement will then be provided by us to the FWC and the other parties to the proceeding. Please note that any communications between us or between you and our affiliates can also be required to be produced.

It is likely that you will be called to attend the hearing to give evidence about the report. The hearing dates are not yet fixed.

It is the FWC's practice to publish evidence filed in modern award related proceedings, although it is able to make orders for different arrangements to apply. Please inform me if you wish to discuss confidentiality or non-publication of your report.

## **Next steps**

Please contact me by telephone on [REDACTED] if you have any queries in relation to this letter.

Yours faithfully

**Keely Tobin**

Legal and Industrial Officer

## Annexure A – Further Background

The background to the Modern Awards Review 2023–24 (Review) is explained in detail in the [Final Report](#) at [1]–[8] and [160]–[167]. In summary, the Review resulted in the Full Bench identifying award provisions which require the Commission’s priority attention. The Final Report indicated that the Commission would initiate proceedings on its own initiative to consider and determine variations of modern awards in six areas, one of which was the development of a working from home term in the Clerks Award.

Working from home was canvassed in both the ‘work and care’ and ‘making awards easier to use’ streams of the Review. The [Work and Care Discussion Paper](#) explored working from home arrangements and invited parties to comment on whether any variations to modern awards regarding working from home arrangements were needed to ensure they continue to meet the modern awards objective. Parties were provided with an opportunity to file submissions by 12 March 2024. Proposals concerning working from home arrangements with respect to one or more modern awards were identified in nine submissions received from various parties.

The ‘Making awards easier to use’ stream of the Review discussed proposals for variations to the seven most commonly-used awards, including the Clerks Award. These included proposals concerned with or said to be relevant to working from home. In the Final Report, the Full Bench (at [102]) observed that:

There was a general consensus amongst parties that modern awards should be varied to deal with working from home arrangements and an acknowledgement of the importance of working from home arrangements to support workers with caring responsibilities. It was also acknowledged that working from home is not relevant to all industries or modern awards.

The Final Report (at [107]) went on to find:

... notwithstanding the general consensus that modern awards should address the issue of working from home, there was no common position reached as to the form which working from home provisions should take in modern awards.

The Full Bench stated the following conclusions (at [162] and [167(4)]):

... the issue of whether current award provisions are ‘fit for purpose’ to accommodate working from home arrangements is a significant one. It is readily apparent that the provision of awards which apply to industry sectors where working from home is most prevalent, such as the Clerks Award, do not necessarily match the practical arrangements by which employees work at home in actuality. This may be operating as an impediment to wider access to working at home arrangements. As earlier discussed, working from home has been raised as an important issue relevant to balancing work and care and job security in other streams of this Review, so we consider that award facilitation of access to working at home arrangements is a matter which requires priority consideration... These proceedings will be concerned with the development of a ‘working from home’ term in the Clerks Award, which we identify as the most commonly used award under which working from home is most likely to occur. The term is intended to be one which facilitates employers and employees making workable arrangements for working at home and removes any existing award impediments to such arrangements. The term that is developed may serve as a model for incorporation in other modern awards, with or without adaptation. The proceedings will be initiated in August 2024.

The Full Bench's identification of the Clerks Award as the most commonly-used modern award under which working from home arrangements are most likely to occur is supported by research published by the Commission which indicates that 41.4 per cent of clerical and administrative workers regularly work from home in contrast to 31.5 per cent of all employees across all occupations.

## Annexure B – List of Issues

- (1) Are variations to the Clerks Award to include a 'working from home' term necessary to achieve the modern awards objective in s 134 of the FW Act?
- (2) How should 'working from home' be defined?
- (3) Would an appropriate 'working from home' term include a right for employees to request working from home arrangements? If so, in what circumstances should a right to request be available and in what circumstances would a request be able to be refused by the employer? Alternatively, should such a clause be facilitative in nature only?
- (4) In the Final Report at [167(4)], the Full Bench indicated its intention for a 'working from home' term to remove existing award impediments to working from home arrangements. What, if any, modifications of the provisions of the Clerks Award dealing with:
  - (a) the spread of ordinary hours (clause 13.3);
  - (b) continuous ordinary work hours (clause 13.6(a));
  - (c) the requirement for ordinary work hours to be worked at the discretion of the employer (clause 13.6(b));
  - (d) the maximum number of ordinary hours per day (clause 13.7);
  - (e) breaks (clause 15); and
  - (f) allowances (clause 19) should be considered in developing an appropriate 'working from home' term to give effect to this intention?
- (5) How will the employer's obligations in respect of overtime under clause 21 operate alongside a 'working from home' term? In particular, how will the working of overtime hours be authorised and recorded?
- (6) Should the 'working from home' term apply to all classifications or groups of employees covered by the Clerks Award, or only some?
- (7) How would a 'working from home' term interact with the right to disconnect in s 333M of the FW Act and clause 13A10 of the Clerks Award?
- (8) Are there any other matters that should be considered in a 'working from home' term?