An equality bargaining breakthrough: Paid domestic violence leave

Article Summary

Introduction

Domestic violence is a problem mostly for women, but also men. Abusers may: refuse to care for
children, physically injure victims, hide car keys, disrupt sleep, stalk victim to/at work, contact
coworkers to stalk victim (not an exhaustive list). Disrupted work of victims leads to disrupted
careers: Less long-term employment, fewer promotions/lower wages. Financial insecurity leads
victims back to abusers. It is estimated that "if no action is taken, violence against women and
their children will cost the Australian economy an estimated $15.6bn by 2021–2022."

2010: Australian Fair Work Commission allows "first clauses providing paid leave and other
entitlements" for victims of DV; >100 more clauses, covering >1 000 000 workers have passed
since

2012: Australian Council of Trade Unions begins logging DV leave clauses. Topics include: paid
leave availability, confidentiality, worker protection, and work flexibility. New Zealand, UK,
Canada are other notable active proponents of this

In Australia: Employees may now request work environment change if experiencing violence
from a family member or in order to help a family member experiencing domestic violence

Case Study

Paper uses a Case Study which focuses on actions by a local Union leading to a clause providing
paid leave for domestic violence-related issues. It was included in an enterprise agreement
between "The Union" and a local council employer ("The Council"). Examines the influence of
four Facilitating Factors (addressed below) on the bargaining process: "External Environment",
"Bargaining Relationship", "Sex of the Negotiators", "Organisational Characteristics".

Final clause included: i) 20 days/yr of paid special leave for medical appointments, legal
proceedings and other activities related to domestic violence. ii) All personal information
concerning domestic violence will be kept confidential and no information will be kept on the
employee’s personnel file without their express written permission. iii) No ‘adverse action’ will
be taken against an employee if their attendance or performance at work suffers as a result of
experiencing domestic violence. iv) The employee can request a change in hours, job duties,
telephone and email details and location of work.

Analysis of the Case Study - Factors Influencing the Bargaining Process

External Environment: Australian Domestic & Family Violence Clearinghouse (ADFVC)
played key role: developed the clause, provided education about domestic violence to both Union
and Council.

No legislative framework meant a more treacherous course during negotiations, due to lack of
precedential guidance.
Neither the decentralised bargaining framework nor the absence of a supportive legislative framework was an impediment to successful bargaining of the domestic violence clause.

**Bargaining Relationship:** Lead Union Negotiator and the Council's CEO knew and understood each other well. Could clarify issues with frank discussion and familiarity. This was helpful.

The Union-Council relationship was "traditional" and therefore sometimes "adversarial", which sometimes complicated matters.

Single employer bargaining dominated, and matters had to be argued on the basis of specific workplace significance. Despite this, the process succeeded.

**Sex of the Negotiators:** There were a number of important notes that enabled the negotiations.

The Union's sex ratio was roughly 1:1, F:M. Both men and women were instrumental to the advancement of the negotiations.

Female Union Delegate was personally concurrently experiencing domestic violence dispute. This provided motivation for her, and provided further credibility to the Union's position.

The Union’s female Industrial Officer had worked in the domestic violence sector as well.

The lead negotiator's "maleness" is cited as possibly useful at the bargaining table when the relationship between negotiators was more "adversarial". Female negotiators are lauded for their promotion and support of the clause, as well as personal experience with, and knowledge of, domestic violence.

**Organisational Characteristics**

Positive public images were desired by all parties, which provided motivation to see the process succeed:

Union - Wanted to uphold internal reputation: i) Issue was important for members, ii) Growing number of female members who should be represented accordingly, iii) Desire to make served communities aware of the issue.

Council - "Operating and providing services in a domain where domestic and family violence was well understood." They wanted to represent this issue. Threat of negative media campaign was also effective.