

August 28, 2020

The Honourable Jean-Yves Duclos, PC, MP
President of the Treasury Board
90 Elgin Street
Ottawa, ON K1A 0R5

The Honourable Chrystia Freeland, PC, MP
Chair of the COVID-19 Cabinet Committee
80 Wellington Street
Ottawa, ON K1A 0A3

The Honourable Biill Blair, PC, MP
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Ottawa, ON K1A 0P8

The Honourable Patty Hajdu, PC, MP
Minister of Health
960 Carling Avenue
Ottawa, ON K1Y 4X2

BY EMAIL

Honourable Ministers,

We are writing to you today both in your capacities as members of the cabinet committee on COVID-19 and as ministers with key and relevant portfolios to ask you to urgently intervene as the Treasury Board Secretariat (TBS) is preparing to push forward significant and potentially dangerous changes to the COVID-19 protections afforded to the public service.

It has become clear that political and media attention to the paid leave provisions being used by a small percentage of public service workers has prompted senior officials at TBS to unilaterally and hastily impose changes to the ability for workers to access this leave – leave that is part of the collective agreements covering the majority of employees.

Moreover, these changes would primarily affect women, Indigenous workers and workers of colour – groups who have already been disproportionately affected by this pandemic both in terms of health and economic impacts. Your own federal / provincial / territorial public health response plan highlights that “it is imperative that the needs of diverse groups of Canadians are carefully considered in order to mitigate adverse consequences and reduce both known and reasonably anticipated inequities.” These changes do not meet anyone’s definition of “carefully considered” in that regard and, indeed, TBS officials confirmed in an August 28 meeting that no gender-based analysis has been carried out of the proposed changes.

Let us be perfectly clear: this is bad public policy that will create a serious operational disruption to a system that has allowed the public service to remain 95% productive in the face of a global pandemic, simply for the sake of optics, at the expense primarily of women and vulnerable employees.

We’re calling on you to direct officials to hold off on any changes until at least January 2021, given that parents and caregivers have already made commitments regarding school and childcare based on existing provisions. Further, we ask that you direct officials use that extra time to engage in negotiations with unions representing public service workers.

Thus far, the COVID-19 response of this government has been exceptional and we commend the government for recognizing that no Canadian should have to choose between protecting their health, putting food on the table, paying for housing or caring for a family member, as the Prime Minister himself noted when announcing the creation of the Canada Emergency Response Benefit (CERB).

Indeed, in the early days of this pandemic, TBS worked in close collaboration with unions. This spirit of cooperation allowed for the mass migration of workers to remote status, with little disruption to operations. It was this same spirit of collaboration that allowed the public service to build, from scratch, the safety net of supports including the CERB that has thus far allowed Canadians to abide public health guidelines and mitigate the impact of this unprecedented global pandemic.

The importance of this priority on worker safety can't be overstated. Of the public servants who did test positive for COVID-19, for example, fully 25% were frontline workers tasked with protecting vulnerable populations in the federal corrections system. Any attempt to limit paid leave provisions for public servants could potentially worsen health outcomes not just for the workers affected but by those they care for – often among the most vulnerable Canadians.

The pandemic has not gone away. Health experts – including Dr. Teresa Tam, the Chief Public Health Officer of Canada - are already advising we prepare for a second wave of cases in the fall, just as schools reopen across the country. It is worth remembering that there is currently insufficient information about the impact of this virus on children and the reopening of schools in most jurisdictions is at odds with the best guidance of public health officials. As Dr. Vera Etches, the Chief Public Officer of Health for Ottawa, has said, we will see cases of COVID-19 in schools. Parents have the option of online delivery specifically because schools can't guarantee the safety of any child, particularly those at higher risk. The proposed changes to leave protections take that option away.

We have too many concerns with the plan to include them all in this letter, but a few include:

- Requiring a doctor's note or other attestation of an employee's elevated risk, which would put an unnecessary burden on the healthcare system at a time when it is under enormous strain.
- Forcing employees to use sick leave to abide by public health guidelines and choose whether to increase the burden on the childcare and school systems, possibly at great risk to their own health, or reduce their own coverage for future illnesses as flu season approaches along with the expected second wave. This will also act as disincentive to employees who are required to be in the workplace to remain home with mild symptoms, increasing the likelihood of infection in the workplace.
- Creating a workplace culture of suspicion and surveillance of employees who require accommodation due to disability or family related responsibilities.
- Reducing the ability of Correctional Services Canada employees and other frontline workers to control the spread of COVID-19 among the populations they serve, as employees will feel more pressure to report to work sick.

As you are probably aware, the collective agreements between Treasury Board and the public service unions provide important leave with pay provisions, providing assistance to employees during exceptional circumstances that prevent an employee from returning to work. Initial TBS guidance recognized the enormity of this unprecedented pandemic and permitted employees to request leave with pay for reasons such as being sick with COVID-19, having to quarantine, not being able to access the technology they need to complete their work remotely, and having to care for dependents.

That approach to managing leave has made the Government of Canada a model employer, ensuring the overwhelming majority of the workforce continues to work full time with many more working part time or staggered hours. Productivity has been sustained at 95% and workers have rightly been praised for going above and beyond to deliver vital services and supports. The Parliamentary Budget Officer has reported that the peak number of weekly hours of 699 leave has since decreased by 84%, to a level that by the end of June represented less than one hour per employee per month.

We acknowledge that the current paid leave provisions were not developed with a long-term pandemic in mind but, so far, they have worked. Unions stand ready and willing to negotiate better protections but it must be done through true negotiations, not the arbitrary imposition of a flawed policy interpretation that will lead to worse health impacts for workers and protracted litigation and liability for the government. The offer has been open since March but we have been formally advised that our counterparts do not have a mandate to reopen our collective agreements to negotiate provisions tailored to fight COVID-19. This is a mistake that will cost Canadians their health and some their lives.

Changing leave provisions to force parents to send children to school runs counter to public health advice and constitutes a failure to accommodate workers based on family status as required by the Canadian Human Rights Act. It will put the health of workers at risk and when the inevitable happens and some get sick or die as a result, the government will be held responsible.

The union members of the COVID-19 working group thank you for your urgent attention to this matter.

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/cc: Nancy Chahwan, Chief Human Resources Officer, Treasury Board Secretariat
Heads of the National Joint Council bargaining agents