Submission to the Senate Standing Committee on Community Affairs on the Fairer Paid Parental Leave Amendment Bill 2015

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The Women and Work Research Group
The University of Sydney Business School Women and Work Research Group (the WWRG) comprises academics from the University of Sydney Business School and the University of Sydney more generally who have an interest in research and policy development regarding women, gender and work.

The WWRG provides a scholarly environment for inquiry into all aspects of women, work, employment, family and community in the Asia-Pacific region and beyond. It provides a focal point for collaboration with established and emerging scholars, with research centres with similar interests and with practitioners and policy makers in the field. The WWRG has an extensive membership of academics and practitioners and holds regular seminars, roundtables and conferences. A number of members have a particular expertise in women’s labour force participation issues, parental leaves, flexible working and women’s pay and career patterns.

The WWRG also engages closely with public and political debates about maternity, family and carers' leave, the implications of changing industrial relations regulations on women, childcare and family violence. Recent studies and reports have included a focus on women and leadership in the NSW public sector, on work and care chains in the Asia-Pacific, analysis of the financial impact of changes to Australia's paid parental leave system and on paid domestic violence leave.

Introduction
The WWRG considers the proposed changes in the paid parental leave (PPL) scheme a highly retrograde step that will reduce income for many working women during the period they are on maternity leave. As a result, women may be forced back to work earlier than desired, impacting negatively on maternal and infant health and wellbeing, and increasing the strain on the childcare system.

The policy direction the proposal signals is of a minimal ‘safety net’ payment. This explicitly contradicts policy developments elsewhere and the Government’s own commitment to PPL. Indeed the policy the government took to the 2013 election was that PPL was a ‘workforce entitlement, not a welfare payment’.¹ At this time the government acknowledged that:

‘a ready way to increase Australia’s productivity is to increase the participation (part time and full time) of women in the paid workforce which is why paid parental leave is an economic driver.’²

The proposed policy fails to build upon this acknowledgement.

¹ Liberal Party 2013 The Coalition’s Policy for Paid Parental Leave, p.2
² Liberal Party 2013 The Coalition’s Policy for Paid Parental Leave, p.2
National economic growth depends significantly on increasing women’s labour force participation. This view is uncontroversial among key stakeholders such as international\(^3\) and Australian policy experts,\(^4\) with the 2015 Intergenerational Report noting that ‘boost[ing] female participation will help Australia achieve an even higher level of future prosperity.’ \(^5\) Business organisations have warned of the potential for unintended adverse impacts on employer funded paid parental leave of the proposed changes as organisations may take steps to reduce this.\(^6\)

This Bill represents an absolute reduction in benefits to working women and is a backward step for gender equality in the workforce. It is out of step with the policy making trajectory and with the concerns of Australian business, it is unfair and unwarranted.

**Summary**

In this Submission by the WWRG to the Senate Standing Committee on Community Affairs on the *Fairer Paid Parental Leave Amendment Bill 2015*, the WWRG notes:

- The lack of an electoral mandate for reducing the scheme; in fact the mandate was for a very substantial increase.
- The lack of evidence for the policy change, both in terms of the level of payment and cessation of the employer paymaster role.
- That the changes make Australia (once again on this issue) out of step with international trends.
- That the changes have the potential to reverse the positive impacts of the scheme on women’s and their infants’ health outcomes.
- That the changes will reduce income and may force women to return to work earlier than desired and therefore to impose increased demand on a childcare system already under pressure.
- That the changes will impact adversely far more on women than men as it is women who overwhelmingly use the current scheme.

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\(^3\) OECD 2012 *Closing the Gap – Act Now*, OECD, Paris.


The current scheme and the proposed changes to Paid Parental Leave

The current PPL scheme provides eligible employees and the self-employed with:

- 18 weeks pay at the national minimum wage (NMW, currently $657 pw) for the primary carer of a newborn or recently adopted child: some or all of this may be transferred to the father/partner.

  \[\text{Value: } \text{c}\$11,826 \text{ (taxable)}\]

- Two weeks pay at the NMW for fathers and partners (Dad and Partner Pay, DaPP) including same-sex partners: this cannot be transferred to the primary carer.
- Both PPL and DaPP may be ‘topped up’ by employer payments

The reduction in payments proposed by the ‘Fairer Paid Parental Leave Amendment Bill 2015’ is:

- That the amount of the Government PPL payment will be reduced or removed where employer payments plus the Government payment results in the PPL claimant receiving more than the maximum Government payment.

The potential impact:

- The proportion of women employees with no employer paid maternity leave is 49%. Estimates are that around 90,000 new mothers will continue to be eligible for the full Government payment.
- Of those with some employer paid maternity leave:
  - around 34,000 women whose employer payment is the same as or more than the full Government payment will receive no Government PPL payment.
  - around 45,000 women whose employer payment is less than the full Government payment will receive a partial PPL payment to ensure they receive that amount.
  - any women who currently receives from their employer less than, equal to or more than the current value of the scheme will incur a loss as a result of the changes, potentially up to $11,826. That is, all women who currently receive some employer benefit will be affected.

The WWRG has conducted an analysis for Fair Agenda & the YWCA Australia on the probable impact of the proposed cuts on the living standards of a range of women in part-time and lower paid positions. The analysis covered a nurse, an ambulance worker, a teacher and a retail worker in different parts of Australia. It concludes that the Federal Government’s

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7 Subject to an earnings cap of $150,000 pa.
8 ‘Parental Leave Pay is currently $657 per week before tax for a maximum of 18 weeks. This is the hourly rate of the national minimum wage x 7.6 (hours in a standard working day) x 5 (days in a standard working week). Parental Leave Pay is a taxable payment that can be paid by your employer or by us directly.’ See http://www.humanservices.gov.au/customer/services/centrelink/parental-leave-pay
proposals are regressive and will have a significant impact on the living standards of lower paid women.\textsuperscript{12}

\textit{Lack of clarity}

The proposed changes are also of concern in that aspects of the Bill are unclear. One of several possible issues is that it may be unclear to women whether they should notify the Government of their employer PPL. Clause 11F(1) of the Bill states that the primary carer pay (PCP) from an employer which is to be deducted from Government PPL is ‘an amount that an employer is legally obliged to pay an employee, under the terms of the employee’s employment, because the employee is on primary carer leave for the child.’\textsuperscript{13} Whether a payment under a company policy is such a payment or a discretionary one, may not be obvious to an employee (nor even in some cases to their employer to whom they are likely to turn to for advice). What will occur where the status of an employer policy is unclear? May employees whose employers have bound themselves to pay PCP be disadvantaged by that commitment compared to those where the payment is discretionary? Are return to work payments/bonuses and superannuation payments to be considered as PCP? What will be stated in the rules which the Bill provides may prescribe which payments are or are not covered by the term PCP?\textsuperscript{14}

\textit{No Electoral Mandate for Change}

The Coalition Government came to office promising a very substantial boost to PPL. It was to be increased to 26 weeks at full pay up to $150,000 annual salary or the NMW (whichever is greater) plus the payment of superannuation at the basic rate. The Coalition policy refers to assisting women to ‘participate as fully as they choose in the workforce.’\textsuperscript{15}

As recently as 7 March 2014 in his Address to the International Women's Day Breakfast in Sydney the Prime Minister said:

\begin{quote}
‘We will introduce a fair dinkum paid parental leave scheme. Now I know that the former government introduced a parental leave scheme based on the minimum wage. That was good, but I want a better scheme – a scheme that is based on peoples’ real wage. Let’s face it, when you are on sick leave you get paid at your real wage, when you are on holiday you get paid at your real wage, if you take long service leave you get paid at your real wage. I think that if you are on parental leave you should be paid at your real wage and that’s what will happen under this Government. Not only should you get your real wage, but you should get superannuation too. Why should women’s retirement be less important than men’s retirement? Why should Australia be one of
\end{quote}

\begin{thebibliography}{9}
\bibitem{12} Analysis of the impact of the Government’s Proposed Cuts to Paid Parental Leave’ \url{http://www.ywca.org.au/news/ppl}
\bibitem{13} Clause 11F(1). Primary carer leave is effectively parental leave.
\bibitem{14} Clause 11F(2).
\bibitem{15} Liberal Party 2013 \textit{The Coalition’s Policy for Paid Parental Leave}, p.3.
\end{thebibliography}
just two OECD countries that does not base paid parental leave on peoples’ real wage?’

The Coalition’s previous policy recognised that workforce attachment was an appropriate goal. The current government was elected on that policy platform which stated (as noted above):

‘there’s no doubt, a ready way to increase Australia’s productivity is to increase the participation (part time and full time) of women in the paid workforce which is why paid parental leave is an economic driver and should be a workforce entitlement, not a welfare payment’

Improving gender equity is one of the Objectives of the *Paid Parental Leave Act* 2010 and the focus on workforce engagement rather than welfare also suggests that wage replacement is appropriate. This is an approach the WWRG endorses and which is supported by international evidence, if gender equity is to be pursued and achieved.

**No evidence base for reductions in the PPL scheme, rather for improvements**

The development of the existing PPL and DaPP schemes has been informed by sound research evidence from the initial Productivity Commission inquiry in 2008/09 resulting in their 2009 report *Paid Parental Leave: Support for Parents with Newborn Children*, to the creation of PPL which came into effect on 1 Jan 2011 (*Paid Parental Leave Act* 2010).

In particular, after extensive examination of the benefits of exclusive breastfeeding and parental care for infants in the first six months of life, the PC decided 18 weeks government funded PPL would allow for almost all families ‘with parents co-funding options (self and employer funded leave)’ to achieve the recommended 6 months’ time away from work (4.1). It also anticipated that Government aims to enhance women’s labour force participation would be aided.

The impact of the current scheme has been analysed thoroughly by the Government funded academic evaluation team, which has now published four reports. This evaluation suggests that the scheme has been successful in progressing towards many of the stated goals, including increasing the time women spend at home with a newborn before returning to work and enhancing their return to work, and in particular, to the same job. But the evaluation also indicates how far there still is to go in achieving further positive outcomes.

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It is a significant achievement of the scheme that it speedily affected change in return to work patterns with fewer mothers returning to work by 18 weeks (only 15 per cent) after childbirth, with the most visible change in behaviour by lower earners.\textsuperscript{22} Nevertheless, by 26 weeks 36 per cent of mothers had returned to work.\textsuperscript{23}

Additionally, very few mothers receive 26 weeks replacement wages plus superannuation currently, suggesting that the financial penalties of taking leave remain severe for women. The economic disparities evident in men and women’s working lives often start at motherhood (see the well documented ‘motherhood’ pay penalty\textsuperscript{24}) and continue into old age.

Currently:

- \textbf{18.8\% is the gender pay gap between average weekly full-time earnings in 2015}\textsuperscript{25}
- \textbf{45.7\% was the superannuation gender gap in 2011-12}\textsuperscript{26}
- \textbf{The labour force participation rate of women is 58.5 per cent and of men is 71.2 per cent}\textsuperscript{27}

Superannuation contributions during the statutory parental leave payment period are not required to be paid by employers or government. This was to be addressed in the federal government policy taken to the electorate. It is not part of the proposed changes, and consequently, the gender gap in earnings will continue and are likely to be exacerbated by the proposed changes.

\textbf{Unfair Impact - felt overwhelmingly by women}
At present over 99\% of those accessing Australia’s Paid Parental Leave (PPL) scheme are women (see Table 1 below). While the scheme is written in gender neutral terms, it is overwhelmingly women who use the government’s PPL scheme. In effect, the proposed restriction on the government PPL will be made on the basis of sex and impacts on women’s opportunity to participate in economic life.\textsuperscript{28}

\textsuperscript{22} This was measured by 2 surveys. The first prior to the introduction of Government PPL looked at mothers’ return to work patterns in late 2010 when their babies were about 12-13 months old. The second in mid and again in late 2012 examined those who had received Government PPL when their babies were about six and 12 months old respectively. See Martin et al PPL Evaluation: Final Report, Australian Government-Department of Social Services, Nov., pp. 3-4.
\textsuperscript{28} See Article 1 of CEDAW, the Convention on the Elimination of All Forms of Discrimination against Women, http://www.un.org/womenwatch/daw/cedaw/
Therefore, to change this scheme as the current Bill proposes, is to introduce a direct and unwarranted reduction of women’s income and potential time spent with their newborn.

Table 1: Parental Leave Pay\textsuperscript{29} recipients by sex, 2012–13 financial year\textsuperscript{30}

\begin{center}
\begin{tabular}{|c|c|c|c|c|c|}
\hline
 & Male, nos & Male \% of total & Female, nos & Female \% of total & Total, nos & Total, \% \\
\hline
Total & 673 & 0.5 & 130,634 & 99.5 & 131,307 & 100 \\
\hline
\end{tabular}
\end{center}

\textit{Source:} DHS administrative data.

The offensive references to mothers who have taken their legitimate entitlements to the Government and their employer parental leave payments as ‘double dipping’ and engaging in a ‘rort’ have not been applied to men/partners who do the same. Indeed, recipients of Government funded DaPP will be able to continue to receive top up payments from their employers – which the WWRG supports, but notes the way in which the reductions in payments (and abuse of parents) is confined to women thus treating them less favourably than men.

The proposed changes to the PPL scheme will set women’s finances back. By contrast, the Budget 2015 payment for small business investment is likely to be more advantageous to men than women, given the gender distribution of small business ownership.

\textbf{Unjust influence on gender equity}

The Government evaluation suggests that the scheme has not impacted gender equity in terms of male take-up of primary carers leave or a greater participation in domestic work at home. The international evidence shows that fathers take leave if it is designated for fathers only and if it is well paid, that is, at income replacement levels (or nearly so). International experts, Moss and Deven (2015)\textsuperscript{31} draw on international evidence to show that

‘experience shows that fathers, by and large, will only use such leave [designated leave]; other forms of leave (e.g. low or unpaid paternal entitlements or any family entitlements) are either not taken or taken predominantly by mothers.’\textsuperscript{32}

\textsuperscript{29}The federal government payment only.


The proposed reduction in PPL benefits overall is therefore likely to reinforce gender roles, rather than moving towards wage replacement levels for PPL which is clearly essential if the tiny number of men taking primary carers leave is to increase.

**Misalignment of Policies**

A reduction in PPL may have two possible outcomes:

- For some women it will mean a break with workforce participation – thus not meeting the government target of increased workforce participation. Currently the PPL scheme has had a positive impact on women’s post birth careers. The evaluation found that since its introduction the proportion of women returning to the job they had prior to PPL increased to 77 per cent from 73 per cent (concentrated on non tertiary qualified women) and those returning to the job and conditions they had prior to their PPL has shown a significant increase for both tertiary and non tertiary qualified women (from 28 per cent to 33 per cent). A somewhat higher proportion of mothers post PPL viewed their career prospects on return more positively than those prior to PPL’s introduction.

- For other women, the reduction in PPL will mean a return to work earlier than desired and therefore increased pressure on childcare – especially for infants. Whilst the use of formal childcare for infants under 1 is low with 8.7 per cent usually attending formal childcare whereas 23.8 per cent use informal care, demand for care is clearly high. Additionally, the proportion in formal care thereafter increases, to 22 per cent of the under 2s. The vast majority of informal care is provided by grandparents. But with the increasing labour force participation of mature aged people and women in particular and the growing geographical dispersion of families, it is likely that demand for formal care for infants will increase. The changes to PPL may add to that pressure. In any event, availability of childcare has and remains a persistent concern for many parents (to an even greater degree than quality and cost). Anecdotal reports suggest this is particularly so for infants.

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35 See for example the report of the Parental Leave in Australia Survey 2006 (undertaken prior to the introduction of Government PPL) indicating that nearly half of mothers working during the 12 months before their child was born and returning to work within 15 months, went back to work earlier than they wished due to financial reasons (pp.16-17), downloaded 21 July 2015: http://www.polsis.uq.edu.au/parental-leave/level1-report.pdf
36 ABS 2014 Childhood Education and Care, Australia, June 2014, Cat. No. 4402.0, Table 1 http://www.abs.gov.au/ausstats/abs@.nsf/mf/4402.0
38 See the annual statistical reports of the Household and Labour Dynamics in Australia (HILDA) survey including the 2015 one at pp. 17-18
Negative International Comparisons
When Australia introduced the PPL Act in 2010 it was one of only two OECD countries to not have a mandated PPL scheme. The introduction was therefore a breakthrough in policy and immediately improved Australia’s standing internationally with regard to women, work and parenting. The introduction of the policy was also in keeping with the movement in policies internationally and the recognition of women’s increasing workforce participation and contribution to economic growth.

Renowned experts on parental leave policies highlight in their review of parental leave policies in 35 countries over the last decade that, despite economic challenges, parental leave policies continue to be developed and improved:

‘Drawing on evidence from the network’s past annual reviews, we are struck by the continued development of leave policies overall, despite the global crisis. While there have been a few examples of cutbacks, the overall picture is one of nation states seeking to develop this policy area. Leave, and related work/life policies, have benefited from the zeitgeist of ‘social investment’, providing a rationale for public spending to make best use of ‘human capital’; and from the political appeal of such policies to increasingly well-educated cohorts of young women contemplating parenthood and wishing to remain attached to the labour market.’ (Moss and Deven, 2015, emphasis added)

The OECD concludes their international comparison of paid parental leave schemes by making a similar point: ‘the trend across OECD countries is for increase and expansion in the length of paid leave available to mothers.’

Unnecessary Change to Employer Role
The proposal to remove the obligation on employers to pay instalments to an employee (by deleting s207) is unnecessary and unwarranted. It may lead to negative consequences in relation to women’s attachment to work. The Phase 3 Evaluation Report finds no evidence to support the removal of the employer role. It found that the majority of employers were easily able to organise the payments and that the costs were minimal:

‘[T]he majority of employers found it easy to organise PLP. More than four-fifths of organisations (81 per cent) agreed or strongly agreed with the statement “It was easy to organise payments for the PPL scheme.” Just 17 per cent of all organisations disagreed

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41 OECD Family database www.oecd.org/social/family/database.htm
43 Table 2.17, Martin et al 2014 PPL Evaluation: Phase 3, Australian Government-Department of Social Services, April.
or strongly disagreed with this statement. There were no significant differences across organisational size or sector.‘

‘[T]hat most employers felt the costs involved in implementing the scheme were minimal. Only 29 per cent of employers stated additional costs were involved in implementing the scheme, responses which varied by organisational size. Medium-sized employers were least likely to report additional costs involved (23 per cent) in comparison to large (33 per cent) and small (32 per cent) employers.’

The design of the PPL scheme is intended to promote mothers’ attachment to their employer. One aspect of this is the mandatory role for employers in delivering PLP to employees which is intended to promote attachment and help employers with staff retention. As outlined above, the scheme has shown significant success in this regard.

**Conclusion and recommendation**

By withdrawing the ability of Australian women to combine employer contributions with government contribution, the effect will be to reduce income for approximately 50% of women who currently receive paid parental leave. The impact of this is to punish women financially and to diminish Australia’s standing internationally.

It is an unfair, unjustified and an unmandated reduction in entitlements to working women.

The WWRG recommends the Bill be rejected in its totality.

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