



January 18<sup>th</sup>, 2016

**Submission to the Inquiry by the Senate Community Affairs Legislation Committee into the Fairer Paid Parental Leave Bill 2016**

**From: The Work and Family Policy Roundtable**

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The Work and Family Policy Roundtable (W+FPR) is pleased to make a submission to the current **Inquiry by the Senate Community Affairs Legislation Committee into the Fairer Paid Parental Leave Bill 2016**

This submission was drafted by Dr Myra Hamilton, Research Fellow at the Social Policy Research Centre, University of New South Wales, and member of the W+FPR, with input from other Roundtable members.

The W+FPR has a strong interest in paid parental leave policy. A robust, sustainable, national paid parental leave system that reflects the research evidence is critical to the wellbeing of women and men and, beyond work, to children and the nature and health of our communities. It is also critical to labour supply, fairness and the productivity of our workplaces and economy.

The attached submission draws on our collective research expertise in the area of paid parental leave policy and workplace relations. We would be happy to expand upon our submission at a public hearing.

Yours sincerely,

Three handwritten signatures in black ink are arranged horizontally. From left to right, they read: 'B Pocock', 'Elizabeth Hill', and 'Sara Charlesworth'.

Emeritus Professor Barbara Pocock Dr Elizabeth Hill

Professor Sara Charlesworth

Co-convenors W+FPR



### **What is the Australian Work + Family Policy Roundtable?**

The Roundtable is made up of researchers with expertise on work and family policy. Its goal is to propose, comment upon, collect and disseminate research to inform good evidence-based public policy in Australia.

The W+FPR held its first meeting in 2004. Since then the W+FPR has actively participated in public debate about work and family policy in Australia providing research-based submissions to relevant public inquiries, disseminating current research through publications for public commentary and through the media.

The Roundtable is a network of 35 academics from 17 universities and research institutions with expertise on work, care and family policy.

Dr Elizabeth Adamson, University of NSW  
Prof Siobhan Austen, Curtin University  
Prof Marian Baird, University of Sydney  
Prof Rowena Barrett, Queensland University of Technology  
Dr Dina Bowman, Brotherhood of St Laurence & University of Melbourne  
Dr Wendy Boyd, Southern Cross University  
Dr Michelle Brady, University of Queensland  
Prof Deborah Brennan, University of NSW  
Emeritus Prof Bettina Cass, University of NSW  
Prof Sara Charlesworth, RMIT University (co-convenor)  
Dr Kay Cook, RMIT University  
Dr Amanda Cooklin, La Trobe University  
A/Prof Rae Cooper, University of Sydney  
Dr Lara Corr, Australian National University  
Adjunct Prof Eva Cox, Jumbunna Indigenous House of Learning (UTS)  
Prof Lyn Craig, University of NSW  
Dr Marianne Fenech, University of Sydney  
Emeritus Prof Suzanne Franzway, University of South Australia  
Dr Myra Hamilton, University of NSW  
Alexandra Heron, University of Sydney  
Dr Elizabeth Hill, University of Sydney (co-convenor)  
Dr Jacquie Hutchison, University of Western Australia  
A/Prof Debra King, Flinders University

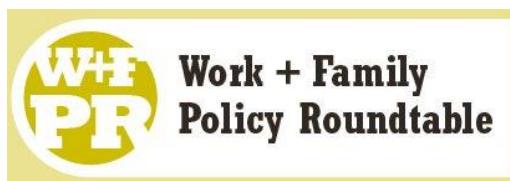
Dr Fiona Macdonald, RMIT University  
Prof Paula McDonald, Queensland University of Technology  
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Emeritus Prof Barbara Pocock, University of South Australia (co-convenor)  
A/Prof Frances Press, Charles Sturt University  
Prof Alison Preston, University of Western Australia  
Dr Leah Ruppanner, University of Melbourne  
A/Prof Belinda Smith, University of Sydney  
A/Prof Meg Smith, Western Sydney University  
Prof Lyndall Strazdins, Australian National University  
Prof Trish Todd, University of Western Australia  
Prof Gillian Whitehouse, University of Queensland

### **Key Principles of the Work + Family Policy Roundtable**

The W+FPR has 12 key guiding principles to inform its work and comment. We believe that in principle, work and family policy proposals should:

1. Recognise that good management of the work-life interface is a key characteristic of good labour law and social policy.
2. Adopt a life-cycle approach to facilitating good work-family interaction.
3. Support women and men to be workers as well as mothers, fathers and carers, and actively encourage fathers as carers.
4. Facilitate employee voice and influence over work arrangements.
5. Ensure sustainable workplaces and workers (e.g. through 'do-able', quality jobs and appropriate staffing levels).
6. Ensure gender equality, including pay equity.
7. Protect the well-being of children and other dependants.
8. Ensure predictable hours, earnings and job security.
9. Promote social justice and the fair distribution of social risk.
10. Treat individuals fairly, regardless of their household circumstances.
11. Ensure flexible working rights are practically available to all workers through effective regulation, education and enforcement.
12. Adopt policy and action based on rigorous, independent evidence.

See <http://www.workandfamilypolicyroundtable.org> for details of the W+FPR and its activities.



## Summary

This submission pertains to the first part of the legislation: “provide that parental leave pay under the Paid Parental Leave scheme will only be provided to parents who have no employer-provided paid primary carer leave, or whose employer-provided paid primary carer leave is for a period less than 18 weeks or is paid at a rate below the full-time national minimum wage”.

The Work and Family Policy Roundtable (W+FPR) is concerned that this policy disregards international research and best practice and would not make Australia’s paid parental leave (PPL) scheme any ‘fairer’. In fact, it would make the scheme considerably less fair by withdrawing some women’s entitlement to PPL and creating poorer outcomes for maternal and infant health, female workforce participation, and gender equality. The proposal may save money in the current scheme but is likely to increase costs for parents, grandparents, employers and government elsewhere.

**The W+FPR recommends that the Coalition Government withdraw the current Fairer Paid Parental Leave Bill 2016 from Parliament. Instead, the focus should be on strategies to bring all women closer to the widely accepted and evidence-based aspiration of 26 weeks PPL.**

## Introduction

The benefits of a paid parental leave scheme for maternal and infant health, for gender equality in the distribution of work and care, for female workforce participation rates, for employment recruitment and retention, and for a nation’s productivity are now well established.<sup>1</sup> Until the introduction of Australia’s PPL scheme in 2011, Australia was one of only two OECD countries without a government PPL scheme. The case for the introduction of a PPL scheme in Australia was therefore strong.

According to the research evidence and international best practice, the benefits of a PPL scheme are best achieved if the period of paid leave is at least 26 weeks.<sup>2</sup> Twenty-six weeks PPL is widely accepted to be the level that is beneficial to women’s workforce participation

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<sup>1</sup> Australian Human Rights Commission (2013) Investing in Care: Recognising and Valuing those who Care, Volume 2 Technical Papers, Australian Human Rights Commission, Sydney.

<sup>2</sup> AHRC, n 1; Baird, M and Constantin, A (2015) ‘Analysis of the impact of the Government’s MYEFO cuts to paid parental leave’, Women and Work Research Group, University of Sydney Business School, Commissioned by Fair Agenda.

and consistent with the World Health Organisation's recommendations about breastfeeding.<sup>3</sup>

Countries that enjoy the best outcomes for female participation in work, paternal involvement in child rearing, and gender equality in the distribution of work and care – such as Sweden – tend to have paid parental leave schemes that are considerably longer than 26 weeks. They also have longer periods of paid father/partner leave coupled with incentives for fathers to take this leave.<sup>4</sup>

If Australia aspires to the goals that a paid parental leave scheme is designed to pursue, such as improving maternal and infant health, increasing female labour market participation and consequently national productivity, and creating a more gender-equal distribution of work and care, then a PPL scheme of 26 weeks or more should be the goal.

In 2011, the Australian Labor Party introduced a PPL scheme in Australia that provides 18 weeks Parental Leave Pay at the rate of the National Minimum Wage for the primary carer of an infant, provided they meet a work test. To be eligible, the individual claimant (usually a woman) must also have earned less than \$150,000 in the financial year preceding the birth.

In 2012, this was extended to include an extra two weeks of Dad and Partner Pay. These measures were very important steps towards meeting the goals set out above. The independent evaluation of Australia's PPL scheme suggested that it supported mothers to delay their return to work in the first six months after the birth of the child, led to improvements to mother's health and breastfeeding duration, and resulted in increased job security for women, increasing the probability of their returning to work (Martin et al, 2015; W+FPRT, 2016).<sup>5</sup>

However, Australia still trails other OECD countries when it comes to the generosity of our PPL scheme. While 18 weeks of Parental Leave Pay and two weeks of Dad and Partner Pay is an important start, it is widely considered among experts in women's and infant health and work and family policy to be just that: a start. The scheme must be developed if Australia is to enjoy the positive outcomes for women's labour force participation, infant health, paternal involvement in child rearing, and gender equality in the distribution of work and care enjoyed by some of our OECD counterparts. At the time of its introduction, the Australian Labor Party explicitly noted that the PPL scheme was only a starting point. The ALP's intention was that new parents combine their government parental leave pay with their employer schemes to increase the PPL period beyond 18 weeks.

Under the current PPL scheme, employers are free to offer paid parental leave to their employees as a benefit that may help attract and retain women and establish the employer as a gender equality employer of choice. Employers have the option of offering employees pay for parental leave to supplement (top up) or complement (extend) the minimal

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<sup>3</sup> AHRC, n 1

<sup>4</sup> AHRC, n 1; Ray, R, Gornick, J and Schmidt, J (2009) Parental Leave Policies in 21 Countries, Center for Economic and Policy Research, Washington.

<sup>5</sup> W+FPRT (2016) Work, Care and Family Policies: Election Benchmarks 2016, Women and Work Research Group, University of Sydney; Martin, B. et al. (2015) PPL Evaluation: Phase 4 Report. Department of Social Services, Canberra. Available at: <https://www.dss.gov.au/our-responsibilities/families-and-children/programmes-services/paid-parental-leave-scheme/paid-parental-leave-evaluation-phase-4-report>.

government payment, knowing that this was permitted and even encouraged under the national scheme. It is in this policy context that some employers have in good faith introduced or extended employer schemes since the introduction of the national PPL scheme in 2011.

Indeed, some women are lucky enough to have access to an employer scheme that brings them up to the standard of PPL enjoyed by their counterparts in other Western countries. But many do not. Sound policy in intent and outcome should be neither 'luck'-dependent nor inequitable.

In 2016, the W+FPR released its Election Benchmarks 2016. These are attached to this submission. In this document, we propose that Australia's PPL policies should aim to *increase* the duration of the government scheme and encourage employers to *increase* the generosity of their own schemes as well. We reiterate in this submission that the recommendations made in the Election Benchmarks are the best principles on which to take Australia's PPL scheme forward.

### **The proposed policy changes**

In contrast to this, the Fairer Paid Parental Leave Bill 2016 sets out measures to *cut* the government parental leave payments going to new parents who have access to employer schemes. Not only will these measures reduce access to the government scheme for many women but they will serve as a disincentive to employers to improve their own schemes. This will see the number of Australian women receiving more than 18 weeks PPL shrink to almost none, moving Australia away from the international ideal and the benefits associated with it.

**The proposed policy will take Australia's PPL scheme, and all its associated benefits for health, workforce participation, gender equality, and national productivity, backwards.**

The proposed policy relies on several misconceptions:

#### ***Incorrect solution to 'unfairness'***

First, the Bill is based on the assumption that it is unfair that some women are able to combine the government PPL scheme and their employer schemes, whereas others must rely solely on the government scheme. The solution, according to the Fairer Paid Parental Leave Bill 2016, lies in removing entitlements from some women so that all are brought down to the same, inadequate level of 18 weeks PPL.

However, the focus should be on improving the circumstances of those who do not have access to employer schemes rather than reducing the benefits of those who do.

#### ***Not double dipping***

Second, the Bill relies on an erroneous assumption that working women are 'double dipping', implying that they are acting improperly by combining the 18 week government scheme with their employer scheme (usually about 3-14 weeks) to care for their babies. In fact, the goal of the original policy was to encourage women to *supplement* the government scheme with their employer schemes. This is what women were advised to do.

## ***Not a safety net***

Third, the Bill and the debate surrounding its introduction is underpinned by an assumption that the PPL scheme is a 'safety net' that should be reserved for 'those who need it'.<sup>6</sup> But PPL at its core is not about meeting the needs of the vulnerable. It is about promoting workforce equality and the health and wellbeing of mothers, infants and families. That is why in many other countries it is provided to women regardless of 'need'.

Hence, the proposal makes cuts to what is already the bare minimum and ignores the international standards to which we should be aspiring.

## **Policy effects and knock-on policy costs**

The proposal in the Fairer Paid Parental Leave Bill 2016 to cut the PPL entitlement of new parents with access to employer-based schemes will have several negative effects and is likely to create a number of knock-on policy costs.

The aim of Australia's PPL scheme should be to maximise the number of women with access to at least 26 weeks paid parental leave. The proposed policy will undoubtedly reduce the number of women with access to more than 18 weeks PPL.

According to calculations by the Women and Work Research Group, in 2014 approximately 80,000 women would have combined the government scheme and their employer schemes, enabling them to reach a period of PPL greater than 18 weeks and closer to the ideal of 26 weeks. Most Australian employers who offer PPL offer periods of between 3 and 14 weeks. According to WGEA data, (<http://data.wgea.gov.au/industries/1>), the average period of PPL provided by employers over the last few years is around 10 weeks. Hence, women receiving the average level of employer-provided PPL of 10 weeks are just able to reach the 26 weeks paid leave (with some at wage replacement rate and most at the minimum wage). The proposed changes would see this limit the PPL entitlement of these women to the inadequate level of 18 weeks paid leave, taking these women backwards.

In work done on behalf of the Women and Work Research Group, Baird and Constantin suggest that, based on their modelling and what is known about Australian women's patterns of parental leave, the proposed changes will:

- prevent more women from spending critical time at home with their new baby;
  - lead to financial duress;
  - reduce the number of women able to afford to stay at home for 26 weeks and thus adversely impact on the health and welfare outcomes of new babies and mothers;
- and

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<sup>6</sup> Christian Porter, 2016, Fairer Paid Parental Bill 2016, Second Reading, Available at: <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=CHAMBER;id=chamber%2Fhansardr%2F49c9d51c-41fd-4c99-9918-985afdc5fb8e%2F0009;query=Id%3A%22chamber%2Fhansardr%2F49c9d51c-41fd-4c99-9918-985afdc5fb8e%2F0008%22http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=CHAMBER;id=chamber%2Fhansardr%2F49c9d51c-41fd-4c99-9918-985afdc5fb8e%2F0009;query=Id%3A%22chamber%2Fhansardr%2F49c9d51c-41fd-4c99-9918-985afdc5fb8e%2F0008%22>

- increase demand for childcare for the very young, in a system that is already struggling to keep up with demand for 0-2 years' places<sup>7</sup>

The proposed changes will force women who currently have access to employer schemes to make one of two decisions: To return to work earlier, before they are ready; or to continue on leave without pay. Each of these decisions will have flow on costs for families, employers and governments, and consequent adverse policy implications.

Placing pressure on women to return to work after 18 weeks, before they are ready, can have negative effects on the health of the mother, the infant and the family. For example, data from the Australian Institute of Health and Welfare reveal that about two thirds of 18 week old babies are still being breastfed.<sup>8</sup> Breastfeeding mums returning to work after 18 weeks are faced with giving up breastfeeding, or undertaking a range of quite complex negotiations to carry on breastfeeding, such as pumping milk to give to the child care provider, leaving work to go home and breastfeed, partially breastfeeding and formula feeding, or having someone bring the baby in to the workplace so they can feed him/her, which can be particularly difficult for those women who work for the 51 per cent of employers who do not provide private breastfeeding facilities.<sup>9</sup> These are the very real questions that women will be grappling with as a result of this proposed policy change.

The potential effects of this proposed policy on breastfeeding create new policy considerations, such as greater support for breastfeeding in workplaces and the implications of possible reductions in breastfeeding rates. Six months of exclusive breastfeeding is known to be essential for later life health. In fact, the WHO recommendations suggest that breastfeeding continue until 12 months of age where possible. The proposed policy would place more families in a position where they are forced to make trade-offs between supporting the family financially (with women returning to work earlier) and giving the baby the best start nutritionally (by remaining on unpaid leave and continuing to breastfeed), which could affect breastfeeding rates and potential health outcomes for the next generation of children.

Those women having their PPL period cut and returning to work earlier as a result of this policy change will also be faced with finding childcare for their very young infant. Some may opt for formal childcare, placing increased demand on the formal childcare sector to care for very young babies,<sup>10</sup> which requires more intensive care and higher staff ratios. Families facing this option will be met with the additional cost of childcare for their infant during this extra period.

Women now opting to return to work after 18 weeks as a result of this policy may also ask grandparents to provide care. Recent research on grandparent childcare revealed that one reason parents opt for grandparent childcare rather than formal centre-based care is because they think their babies are too young for centre-based care. Increasing numbers of parents asking grandparents to provide care for smaller babies can have knock-on effects on

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<sup>7</sup> Baird, M and Constantin, A, n 2, direct quote.

<sup>8</sup> Australian Institute of Health and Welfare (2011) 2010 Australian National Infant Feeding Survey: indicator results. Canberra: AIHW, p. 7. Available at:

<http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=10737420925>

<sup>9</sup> Hodgson, H (2016) Paid Parental Leave Scheme Ignores Economics of Well-Functioning Families, The Conversation, 25 October 2016.

<sup>10</sup> Baird, M and Constantin, A, n 2.



grandparents' workforce participation, retirement decisions, incomes, and health and wellbeing.<sup>11</sup>

Other women, as a result of the proposed policy, may opt to continue on leave without pay. This is likely to place financial strain on these families<sup>12</sup>, particularly families on lower incomes. It also has the potential to put psychological strain on families. Research suggests that there are all sorts of complexities in the distribution of resources within households. For example, studies show that who earns the money affects how it is spent.<sup>13</sup> This change could mean that more women would now be forced to rely on their partner's income for some of the period that they are away from work bearing and rearing infant children. This has the potential to limit their financial autonomy at a time when many already feel isolated or vulnerable.

Research also suggests that paid parental leave is much more likely than unpaid parental leave to result in re-entry into work. This means that increasing unpaid leave has the potential to decrease the likelihood of women returning to work at all.<sup>14</sup>

The proposed change would also have an adverse impact on employers. Employers who introduced or extended paid parental leave since the introduction of the government PPL scheme did so on the basis that every week of salary paid to an employee on parental leave would financially benefit that employee and reflect well on the employer. Under the proposal in the Fairer Paid Parental Leave Bill, however, for every week the employer pays, the government withdraws a week's support, leaving the employee with little or even no benefit of the employer's scheme. In this way, employees on parental leave have their total benefit reduced by the proposal, but it is important to appreciate that employers are also affected detrimentally. Under the proposal, employers who have established schemes are being made to pay for weeks of parental leave that the government currently pays, with no benefit to the employee or the employer.

This proposal negatively changes the policy context in which employers provide paid parental leave. Those employers who have already established schemes as contractual entitlements or through collective agreements are legally obliged to continue these payments, despite the future benefit to employees being erased or reduced. For those employers who do not have any employer scheme, the proposal provides a great disincentive; an employer wishing to provide family-friendly benefits is not likely to choose an initiative that costs the employer money but does not benefit the employee. In this way the proposal operates to restrict employer options in attracting and retaining employees and promoting gender equality.

**Hence, while the Coalition Government wants to save money by cutting the government parental leave payments going to new parents who have access to employer schemes, any such 'savings' have the potential to *increase* costs elsewhere for parents, grandparents, employers, and governments.**

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<sup>11</sup> Hamilton, M and Jenkins, B (2015) Grandparent Childcare and Labour Market Participation in Australia, National Seniors Australia, Sydney.

<sup>12</sup> Baird, M and Constantin, A, n 2.

<sup>13</sup> Waseem, S (2004) 'Household monies and decision-making', Policy Research Paper No. 23, Social Policy Research Centre, University of New South Wales.

<sup>14</sup> AHRC, no 1.

## **The proposed crossbench compromise**

One option has been described as a ‘compromise’ between the Coalition Government and the crossbench and is currently being costed by Government.<sup>15</sup> The proposal is to increase the period of government parental leave pay to the primary carer from 18 to 20 weeks at the National Minimum Wage but still limit access to the government pay for those who are eligible for employer-paid leave.

The compromise is problematic. The W+FPR welcomes increases to the PPL but this should not undermine the principle of gender equality. As noted previously in this submission, PPL is a workforce and a family health policy, not a welfare measure. The proposed increase to 20 weeks in the government PPL scheme would see people *without* access to employer schemes receive 20 weeks parental leave pay, but would continue to penalise those with an employer scheme. Such a proposal would still create worse outcomes overall than the scheme that we have now.

**Under this proposed ‘compromise’, while about half of women (i.e. those with no employer schemes) would be two weeks better off, the other half (i.e. those *with* employer schemes) would be worse off (most of them between about 1-18 weeks worse off). Those with the average employer PPL period of 10 weeks will be worse off by about 8 weeks.**

This means that to achieve the international benchmark of 26 weeks – a benchmark to which the Australian Government should aspire– we are moving half of women a little bit closer to it, and the other half, on average, a lot further away.

So, like the Government’s original proposal, this option also undermines the principles underpinning a PPL scheme – a gender equality measure that is an entitlement for all women rather than a safety net for some.

## **Conclusions**

The proposed changes to PPL would see a cut in the entitlement to government parental leave pay for women with access to employer schemes. This proposed change disregards international research and best practice and does not make PPL any ‘fairer’. In fact, it makes the scheme considerably less fair by reducing some women’s entitlement to PPL. It is likely to create poorer outcomes for maternal and infant health, female workforce participation and gender equality, and has the potential to create greater inequalities among different groups of women. The proposal may save money in the current scheme but is likely to increase costs for parents, grandparents, employers and government elsewhere.

**The W+FPR recommends that the Coalition Government withdraw the current Fairer Paid Parental Leave Bill 2016 from Parliament. Instead, the focus should be on strategies to bring all women closer to 26 weeks PPL.**

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<sup>15</sup> Comments by Christian Porter in ‘Paid parental leave backflip delivers’ The Daily Telegraph, 19 November 2016, Available at: <http://www.dailytelegraph.com.au/news/paid-parental-leave-half-of-all-working-women-will-be-better-off-after-government-backflip/news-story/e2dc46f9857469762c8818aa0f621a42>