



# Work, Care & Family Policies

## Election Benchmarks 2019



Work + Family  
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The Election Benchmarks 2019 reflect the scholarship and research-based deliberations of the members of the Australian Work + Family Policy Roundtable.

All correspondence should be directed to the Co-convenors of the W+FPR:

- Associate Professor Elizabeth Hill, The University of Sydney, *[elizabeth.hill@sydney.edu.au](mailto:elizabeth.hill@sydney.edu.au)*
- Professor Sara Charlesworth, RMIT, *[sara.charlesworth@rmit.edu.au](mailto:sara.charlesworth@rmit.edu.au)*

The 2019 Election benchmarks are dedicated to the memory of Belinda Tkalcevic, a long-term friend of the Work + Family Policy Roundtable and tireless campaigner for the recognition of work and care issues in public policy.



# Work, Care & Family Policies

## Election Benchmarks 2019



The *Australian Work + Family Policy Roundtable* is a research network of 32 academics from 17 universities and research institutions with expertise on work, care and family policy. The goal of the Roundtable is to propose, comment upon, collect and disseminate research to inform evidence-based public policy in Australia.

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- Prof Siobhan Austen, Curtin University
- Prof Donna Baines, University of Sydney
- Prof Marian Baird, University of Sydney
- Dr Dina Bowman, Brotherhood of St Laurence & University of Melbourne
- Dr Wendy Boyd, Southern Cross University
- Adjunct Dr Michelle Brady, University of Melbourne
- Emeritus Prof Deborah Brennan, University of NSW
- Emeritus Prof Bettina Cass, University of NSW
- Prof Sara Charlesworth, RMIT University (co-convenor)
- A/Prof Kay Cook, Swinburne University of Technology
- Dr Amanda Cooklin, La Trobe University
- Prof Rae Cooper, University of Sydney
- Adjunct Prof Eva Cox, Jumbunna Indigenous House of Learning (UTS)
- Prof Lyn Craig, University of Melbourne
- A/Prof Marianne Fenech, Sydney University
- Emeritus Prof Suzanne Franzway, University of South Australia
- Dr Myra Hamilton, University of NSW
- Alexandra Heron, University of Sydney
- A/Prof Elizabeth Hill, University of Sydney (co-convenor)
- Dr Jacquie Hutchison, University of Western Australia
- Adjunct A/Prof Debra King, Flinders University
- Dr Fiona Macdonald, RMIT University
- Prof Paula McDonald, Queensland University of Technology
- A/Prof Jill Murray, La Trobe University
- Adjunct Prof Frances Press, Charles Sturt University
- A/Prof Leah Ruppner, University of Melbourne
- A/Prof Belinda Smith, University of Sydney
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- Prof Miranda Stewart, Melbourne University
- Prof Lyndall Strazdins, Australian National University
- Prof Gillian Whitehouse, University of Queensland

Further information about the W+FPR is available at <http://www.workandfamilypolicyroundtable.org>

### Positive policies for better work, care and family outcomes.

The Work + Family Policy Roundtable held its first meeting in 2005 and since then has actively participated in public debate about work, care and family policy in Australia. In the lead up to the 2019 Federal election, the Roundtable proposes a set of research-informed Policy Benchmarks against which election proposals for improving work, care and family outcomes in Australia can be assessed. These Benchmarks arise out of our collective research expertise and discussions at workshops held in April 2017 and September 2018. This is our fifth set of Federal Election Benchmarks.

The Roundtable believes work, care and family policy proposals should be guided by sound policy principles which:

- Recognise that good management of the work-life interface is a key characteristic of good labour law and social policy;
- Adopt a life-cycle approach to facilitating effective work-family interaction;
- Support both women and men to be paid workers and to share unpaid work and care;
- Protect the well-being of children, people with disabilities and frail older people who require care;
- Promote social justice and the fair distribution of social risk;
- Ensure gender equality, including pay equity;
- Treat individuals fairly, regardless of their household circumstances;
- Ensure sustainable workplaces and workers (e.g. through 'do-able', quality jobs and appropriate staffing levels);
- Ensure predictable hours, earnings and job security;
- Ensure flexible working rights are available in practice, not just in policy, to all workers through effective regulation, education and enforcement;
- Facilitate employee voice and influence over work arrangements;
- Recognise and support the ongoing need for income support where earnings capacities are limited by care responsibilities or other social contributions;
- Recognise the particular cultural and social needs of groups who have been excluded and discriminated against, such as Indigenous peoples and newly arrived migrants and refugees, who may require diverse responses to participate effectively; and
- Adopt policy and action based on rigorous, independent evidence.

# Executive Summary

In the lead up to the 2019 federal election, the Roundtable has identified an overarching policy theme of **Time to work and time to care: Making gender equality possible** highlighting three essential policy trajectories: increased investment in high quality integrated care infrastructure; a strong regulatory system fit for purpose; and gender equality. Within this broad theme, seven policy areas are identified as the key contemporary issues facing workers and families in Australia as they attempt to combine work, care and family responsibilities.

## Policy areas

- Paid leave to care
- Decent working time & job security
- Sustainable & high-quality care services
- Good quality jobs for the care workforce
- Gender pay equality
- Safe workplaces
- Institutional support for work and care

These policies are connected and together form the 'policy packages' (Brady et al 2018) within which households make decisions about work and care. Research evidence shows that a work, care and family policy framework that promotes gender equality and good outcomes for households requires an integrated approach that creates smooth and secure transitions between work and care over the life course. Careful articulation between these policy areas is essential.

## Summary of Recommendations

### Time to work and time to care: Making gender equality possible

1. Increased public investment in care infrastructure with a goal of an additional 2% GDP expenditure;
2. Tax reform that prioritises a more progressive tax system and broader tax base; and
3. Robust regulatory and quality assurance systems that support the delivery of high-quality services and decent employment for the care workforce.

### Paid Leave to Care

1. Immediately extending the duration of Parental Leave Pay available to primary carers to 26 weeks and extending partner pay to 4 weeks; and consideration be given to extending both forms of leave paying them at wage replacement levels;
2. Including superannuation in Parental Leave Pay and partner leave payments;
3. Providing casual employees access to paid personal and carers leave;
4. Providing domestic violence leave as paid leave in the National Employment Standards;
5. Introducing paid end-of-life/palliative care leave for a period of 12 weeks; and
6. Improving access to replacement care for carers of a person with a disability, chronic illness, or frailty due to old age.

#### Decent Working Time & Job Security

1. Establishing firm working time minima in the National Employment Standards and in all modern awards. These include:
  - a. Restricting maximum weekly hours of work to 38 hours except by mutual agreement;
  - b. A minimum engagement of 4 hours for casual and part-time workers; and
  - c. Requiring written agreement to a regular pattern of hours as well as written agreement to, and adequate notice of, changes to hours for part-time workers;
2. Government must enforce these minima and run an energetic campaign promoting innovative strategies for employers to limit excessive hours and provide predictable carer friendly hours;
3. Ensuring working time regulation provide predictability and facilitate mutually agreed flexibility:
  - a. Casual status must be restricted to genuinely irregular and occasional on-call employment so that paid leave is much more widely available;
  - b. Adequate penalty rates for antisocial hours (weekends, evenings, nights) and for overtime including for part-time employees working beyond their minimum contracted hours, is needed to deter poor rostering practices and properly compensate for the work/life interference associated with unsocial and overtime hours; and
4. Extending the right to request flexible working to all employees upon starting a job, with employees able to appeal on the merits of the employer's refusal to the Fair Work Commission where this request is unreasonably refused. Government must provide information on and promote the use of the right to request as an entitlement for all employees.

#### Sustainable & High Quality Care Services

1. An Early Childhood Education and Care (ECEC) system that provides effective access to at least two days per week of subsidised high quality ECEC to all children, regardless of their parents' workforce participation; ensuring user friendly access for disadvantaged groups and those in remote and regional Australia;
2. Restoration of Commonwealth funding for the National Quality Agenda including funding for the Australian Children's Education and Care Quality Authority;
3. A guarantee of continued funding for the National Partnership on Universal Access to early childhood education for four year olds and an extension of this Partnership to three year olds;
4. Improved pay and conditions for all ECEC educators, with movement towards pay parity for early childhood teachers compared with their peers in primary education;
5. Robust regulatory and accountability frameworks that protect the quality of care and the effective and equitable spending of public funds in the aged care and disability sectors;
6. Reform in the aged care sector that is based on co-design principles, occurs at a pace that ensures full evaluation of outcomes, and takes account of the voices of service-users, their families and sector workers;
7. The development of aged care benchmarks that recognise the importance of decent working conditions and time to care in providing good quality care; and
8. An effective and equitable National Disability Insurance Scheme that produces consistent and high quality support outcomes for people with disability and addresses carer needs; including through capacity building, support co-ordination, outreach and independent advocacy for people with disability and for carers.

## The Care Workforce

1. Equal pay for care workers through gender equality reforms in the industrial relations system including in the objects of the Fair Work Act 2009;
2. Improved minimum standards in care awards and collective bargaining reforms that enable sector-wide bargaining for care workers and require the engagement of funding bodies as well as employers;
3. Care workforce strategies that include decent work for care workers as an objective and that are developed, implemented and evaluated in consultation with all parties, including workers and their unions;
4. Adequately funded education, care and support systems that provide for frontline worker training and accreditation and opportunities for development and pathways to higher-paid jobs; and
5. Recognition of and support for the family responsibilities of care workers (and those working in other sectors) coming to Australia as temporary migrants.

## Gender Pay Equality

1. The Australian Government establish equal remuneration as an explicit objective of the Fair Work Act 2009;
2. The equal remuneration provisions of the Fair Work Act 2009 be amended so that the Fair Work Commission can hear applications that address gender-based undervaluation. Where gender-based undervaluation is demonstrated the Commission be empowered to set new rates of pay that properly reflect the value of the work;
3. The objectives of the Fair Work Act 2009 that address modern awards and the National Employment Standards (NES) be amended so that awards and the NES are able to provide a broad and inclusive framework capable of providing improved wages and conditions; and
4. The equal remuneration objective in the Fair Work Act 2009 be explicitly monitored through the modern award review process and that systemic inequalities, including differences between male-dominated and female-dominated awards in areas such as the definition of ordinary hours and the payment of penalty rates, and women's lower access to enterprise bargaining, be addressed.

## Safe workplaces

1. National and state-based occupational health and safety laws to explicitly recognise gender-based violence, mandating prevention and complaint mechanisms to address it; and
2. The Australian government support the adoption of the proposed ILO Convention on Violence and Harassment in the World of Work at the 2019 International Labour Conference.

## Institutional support for decent work and decent care

1. Establishing a Federal Agency for Work, Care and Community responsible for the overarching design and implementation of equitable work, care and family policies. This would include systematic research and ongoing evaluation of work, care and family policy challenges facing Australia;
2. Provision of adequate funding to maintain existing data sets and research capacity to investigate changes at work and in Australian households. This includes immediate reinstatement of Australia's Time Use Survey and extension of the data collection and analysis capacity of the Workplace Gender Equality Agency;
3. The National Disability Insurance Agency collect and make publicly available national-level data on the NDIS and its outcomes; and
4. The Australian Bureau of Statistics review its ANZSIC and ANZSCO classification structures to ensure that care services are sufficiently and accurately disaggregated and described and that occupational classifications, particularly for frontline care workers, reflect the increasing complexity and skill level of the work that is undertaken.

## Time to work and time to care: Making gender equality possible

**A**USTRALIAN HOUSEHOLDS face numerous challenges as they negotiate their work, care and family responsibilities. Current policy settings will not make this task any easier in the future. National policy settings for work, care and family do not support women and men to participate as equals in the labour market or in the home. Instead women continue to shoulder most of the unpaid domestic and care work, and men the majority of paid work. The highly gendered structure of our labour markets, tax and transfer systems, workplace cultures and social norms mean that while the majority of Australian women are now engaged in paid work, it is often on a part-time basis. This is especially the case for women with dependent children. Since the 1980s the proportion of employed women (aged 30-50) engaged in full time work has remained relatively flat (ABS 2018a). Over the life course these gendered work and care patterns exacerbate women's financial insecurity, especially following relationship breakdown (Cook 2019).

Policy settings for a prosperous, healthy and equal Australia must provide households with time to work and time to care for family and community in a way that suits their circumstances. Australians are very clear about their care preferences: family care is highly desired, but so too are high quality formal care services delivered professionally in both centre-based and in-home settings. To support women, men and families in Australia to work and care in a way that reflects their needs, values and aspirations, we require strong and coherent investment in care infrastructure. This will include:

1. provision of publicly funded care services for children, the elderly, those with disability and those who are ill;
2. formally legislated care policies that allow for informal family and community care – such as paid parental leave, flexible working hours and domestic violence leave; and
3. decent work and wages for our growing care workforce.

Financing high quality care services and the workforce to deliver these services is costly and Australian governments will need to increase expenditure on care infrastructure to provide strong social care services. For example, available comparative OECD data on public expenditure on long term care indicates that Australia spends around 1.0% of GDP compared to an OECD average of 1.8% (CEPAR 2019; OECD 2017). Recent international research estimates that if Australia spent an additional 2% of GDP on care infrastructure, we could deliver a decent and sustainable care system that provides the high-quality services people need alongside decent working conditions for those working in these services (De Henau et al 2016).

Robust national investment in a high quality care economy will support community wellbeing, workforce participation and economic security for all. Care infrastructure has direct economic benefits for women supporting them generate higher incomes and retirement savings through paid work, while also contributing to tax revenue. Properly designed work and care policies will ensure a skilled labour force of working age women can contribute fully to the economy and taxes while also supporting families.

To deliver expanded and decent care infrastructure that meets the demands of an aging population, community expectations about the quality of care, and decent wages for the care workforce will require a strong and resilient tax base. A more progressive tax system and broader tax base is essential to ensure sustainable revenue collection and financing of the care economy.

Expanded public investment in social care will also require robust regulatory and quality assurance systems that ensure the provision of high-quality sustainable services and decent employment conditions. This is critical given the financial and consumer risk embedded in Australia's highly marketized model of social care (Hill & Wade 2018, Davidson 2018, Newberry & Brennan 2013). Current funding models underwrite fragmented and insecure work in frontline care work and many jobs do not provide a direct employment relationship between employee and employer. This leaves many workers with inadequate work conditions and limited protections. The future of work, care and family policy must include fundamental protections for all workers, irrespective of their specific employment status. This is the responsibility of the federal government, which is effectively the lead employer of frontline care workers in a supply chain of contracted out services.



Our Election Benchmarks 2019 provide a detailed set of research-informed policy recommendations in key policy areas that will support Australian households to secure time to work and time to care in ways that encourage gender equality. The demand for gender equality has become increasingly urgent in Australia and around the globe. Policies that provide both men and women with time to work and time to care are essential to promoting a more equitable gender division of labour and to achieving gender equality in employment. In the lead up to the 2019 election all major political parties have gender equality policies as part of their electoral platform. Bold policies for decent work and decent care will deliver gender equality, peace, prosperity and wellbeing for all. There is much to be done.

## We recommend

1. **Increased public investment in care infrastructure with a goal of an additional 2% GDP expenditure;**
2. **Tax reform that prioritises a more progressive tax system and broader tax base; and**
3. **Robust regulatory and quality assurance systems that support the delivery of high-quality services and decent employment for the care workforce.**

## Paid Leave to Care

**P**AID LEAVE POLICIES that deliver job protection and time away from work for those with care responsibilities are essential to building gender equality in the workplace and in the home.

In Australia, apart from childcare responsibilities, more than one in eight workers have significant care responsibilities for people with disability and/or older people (aged 65 years and over) (ABS 2016). The National Employment Standards (NES) establish minimum entitlements for employees to receive four forms of leave to assist with caring responsibilities and the death of a close family member: up to ten days per year of paid personal/carer's leave (available only to permanent employees); up to two days of unpaid carer's leave each time a family/household member requires care; up to two days of paid or unpaid compassionate leave when a family/household member dies or suffers a life threatening illness; and 12 months unpaid parental leave (provided the employee has been employed for at least 12 months and, if casual, has been in regular and systematic employment). The Australian Government also provides Parental Leave Pay (PLP) at the national minimum wage for 18 weeks to workers who meet certain work, income, and residency requirements, and two weeks of Dad and Partner Pay (DaPP), neither of which fall under the NES. Following a decision in 2018 by the Fair Work Commission, access to five days of unpaid domestic violence leave per year is now included in the NES.

These leave provisions are significant although important gaps and limitations remain. Casual employees have no access to *paid* carers and compassionate leave which means around a quarter of employees (Gilfillan, 2018) do not have access to paid leave when they provide care for, or experience critical illness or death of, family/household members. In addition, Australia has no provision for longer periods of leave to provide end-of-life care (AHRC 2013; Maetens et al 2017). In recognition of increasing numbers of people, particularly older people, requiring end-of-life or palliative care at home in the community, countries such as Canada, Belgium, France, Germany and Sweden have introduced periods of at least three months of paid and/or unpaid leave.

As the national parental leave scheme approaches its 10th anniversary it is time to review and extend the scheme so that it meets the needs of contemporary families and workplaces. Parental leave schemes are widely acknowledged as benefitting infants, working parents, employers and the economy at large by maintaining maternal connection to the workforce, providing time to care for newborns and enabling some sharing of care between mothers, fathers and/or other primary carers. In its current form the scheme is accessed by most working mothers, but only about 25 per cent of fathers or partners use DaPP (DSS Annual Report 2017-18). There is considerable room for improvement in the scheme's framework and length. Twenty-six weeks PLP is widely accepted to be the level that is beneficial to women's workforce participation (AHRC 2013) and consistent with the World Health Organisation's recommendations about breastfeeding. The current architecture of paid parental leave in Australia replicates and entrenches traditional gender roles. Thus, after a period of leave reserved for the birth mother, job-protected parental leave paid at wage replacement levels and equally shared between parents or other primary carers is essential for gender equal caregiving.

Leave provisions provide employees with *time to care*, however those with caring responsibilities also require quality, affordable and accessible disability support, aged care and early childhood education and care services for their family members/friends so they have the *time to work* (AHRC, 2013). Care services must meet the workplace and other needs of carers as well as the needs of the person for whom they provide care (Pickard et al 2018). The shift to individualised or consumer-directed care in the NDIS and Commonwealth Home Support Program provides tailored services designed to meet the needs of people with disability or the aged. However, for the most part, these services do not provide the *replacement care* required to support carers to participate in paid employment (Hamilton et al 2016; Laragy & Naughtin 2009; Arksey et al 2004). The Integrated Carer Support Service (ICSS), due to be rolled out by the end of 2019, is designed to provide a suite of services that meet the specific needs of carers. However, at this stage, the capacity of the ICSS to directly support carers to engage in paid work is very limited.

## We recommend

1. **Immediately extending the duration of Parental Leave Pay available to primary carers to 26 weeks and extending partner pay to 4 weeks; and consideration be given to extending both forms of leave paying them at wage replacement levels;**
2. **Including superannuation in Parental Leave Pay and partner leave payments;**
3. **Providing casual employees access to *paid* personal and carers leave;**
4. **Providing domestic violence leave as *paid* leave in the National Employment Standards;**
5. **Introducing paid end-of-life/palliative care leave for a period of 12 weeks; and**
6. **Improving access to replacement care for carers of a person with a disability, chronic illness, or frailty due to old age.**

## Decent Working Time & Job Security

**D**ECENT WORKING TIME arrangements and job security make it possible for working carers to engage in both unpaid care and paid work. More inclusive employment regulation, that is also widely understood and properly enforced is needed. Gender inequality at home and at work is driven by polarised working and caring time (Charlesworth et al 2011). In 2018, 28% of men compared to 11% of women worked 45 hours per week or more (ABS 2018b). Long full-time working hours contribute to men's greater earnings, enabling increased pay in overtime and bonus payments, and career progression. Within couple families, long hours worked predominantly by men limit the working time of their partner and her career opportunities and inhibit shared time available for unpaid work activities such as care, housework and contribution to the wider community. Countries that impose a clear maximum working week have lower gender gaps in working hours (Landivar 2015).

Workers who have primary care and other family commitments, principally women, are most likely to take on part-time work. Part-time jobs are more insecure than full-time jobs, with over half of them casual compared to around one in ten full-time jobs (ABS 2017a), and without the paid leave so vital to combining work and care successfully. While working time and earnings are more variable for casuals than those with an ongoing contract (ABS 2017b), more recently there has been some employer pressure to make part-time more flexible. The Fair Work Commission has flagged its preparedness to consider aged care and disability services employer claims for more 'flexible' part-time provisions once major sector reforms have been implemented (Charlesworth & Smith 2018), potentially undermining the working time predictability essential to combining work and care.

Limiting long hours and ensuring those working shorter hours have the *same* access to job security, predictability of working time and income as those working fulltime is crucial to provide the basis for decent working conditions. Predictable working time and carer-friendly flexible working must become the workplace norm for workers across the life course. Research suggests flexible working helps women maintain working hours after childbirth (Chung & van der Horst 2018) while fathers' working time flexibility also assists (Ayrogyrous et al 2017). Both firm working time protections and access to flexible working are crucial to those caring for older dependants (James & Spruce 2015).

The right to request (RTR) flexible working arrangements in the National Employment Standards allows some workers to request changes to their working arrangements. However, many workers do not access these rights because they are unaware of them or they are unavailable to them in practice (Cooper & Baird 2015). Take up of working time flexibility by men remains low (Skinner & Pocock 2014) entrenching rather than reducing gendered inequalities in sharing work and care. Despite some positive changes to the RTR in 2018, the substantive reasons for an employer's refusal to consider a request for flexibility by an eligible worker cannot be appealed. The RTR thus remains an ineffective flexibility measure for many Australian workers (Pocock & Charlesworth 2017).

## We recommend

1. **Establishing firm working time minima in the National Employment Standards and in *all* modern awards. These include:**
  - a. **Restricting maximum weekly hours of work to 38 hours except by mutual agreement;**
  - b. **A minimum engagement of 4 hours for casual and part-time workers;**
  - c. **Requiring written agreement to a regular pattern of hours as well as written agreement to, and adequate notice of, changes to hours for part-time workers; and**
2. **Government must enforce these minima and run an energetic campaign promoting innovative strategies for employers to limit excessive hours and provide predictable carer friendly hours;**
3. **Ensuring working time regulation provide predictability and facilitate mutually agreed flexibility.**
  - a. **Casual status must be restricted to genuinely irregular and occasional on-call employment so that paid leave is much more widely available;**
  - b. **Adequate penalty rates for antisocial hours (weekends, evenings, nights) and for overtime including for part-time employees working beyond their minimum contracted hours, is needed to deter poor rostering practices and properly compensate for the work/life interference associated with unsocial and overtime hours; and**
4. **Extending the right to request flexible working to *all* employees upon starting a job, with employees able to appeal on the merits of the employer's refusal to the Fair Work Commission where this request is unreasonably refused. Government must provide information on and promote the use of the right to request as an entitlement for *all* employees.**

## Sustainable & High Quality Care Services

**C**ARE SERVICES that uphold the human rights of care recipients and support the well-being and economic security of those with caring responsibilities must be of a high quality. The delivery of high quality Early Childhood Education and Care (ECEC) is essential for the wellbeing of Australian children, especially those from disadvantaged backgrounds, due to ECEC's positive role in redressing systemic patterns of intergenerational inequality (Melhuish 2014; Heckman 2012).

A new child care subsidy system came into effect in July 2018. The new system replaced Child Care Benefit (CCB) and Child Care Rebate (CCR) with a new Child Care Subsidy (CCS) which is both means-tested and activity tested. Under the new arrangements, the Commonwealth sets an hourly cap rate for each major service type and families are eligible for a percentage of this rate, depending on their income and the type of service they use. Families on \$66,958 or less are eligible for 85% of the cap rate; the percentage tapers down as family income rises and cuts out at \$351,248. If services charge fees above the cap, families must pay the gap. The new system removes the subsidy cap for families on less than \$186,958 and lifts it to \$10,000 per year per child for families who earn more than this.

The package is likely to benefit low- and middle-income families who have secure, regular employment. Families without jobs and those with insecure or sporadic employment (a growing proportion of the workforce) are less well served. The new package introduces a three-tiered activity test which links the hours of subsidy that parents can claim to the hours spent in employment, study or other approved activities. The activity test penalises children whose parents are not in the workforce or who work only occasionally – the very children who stand to gain the most from quality ECEC (Pascoe & Brennan 2017). In addition, it provides no subsidised care to those parents looking for work or seeking to make the transition from providing stay-at-home care to employment. New safety net measures designed to assist children in disadvantaged circumstances, require families to negotiate complex bureaucratic hurdles.

Research shows that complex bureaucratic processes to tackle social disadvantage are unlikely to be effective (Skattebol et al 2014). The requirement to apply for CCS online is a significant barrier to families with language and literacy difficulties, to disadvantaged groups who face high internet costs and those in remote and regional Australia, especially Aboriginal and Torres Strait Islander families (Thomas et al 2018).

The new arrangements also fail to address the ongoing issues confronted by the ECEC workforce. Decent wages for educators are vital for the development and sustainability of a high quality ECEC sector. The low wages endemic to the sector must rise to attract and retain a skilled workforce.

The Commonwealth has pulled back from national agreements that have underpinned the sector for the past decade. Beyond 2019, there is no commitment to ongoing funding for Universal Access to early childhood education (the agreement that supports early learning for 4 year olds). As well, in 2018, the government announced that the agreement underpinning the National Quality Agenda on ECEC will not be renewed and federal funding for the Australian Children's Education and Care Quality Authority will end in 2020. These developments pose a significant threat to the quality of ECEC and to positive outcomes for children and families.

## We recommend

- 1. An Early Childhood Education and Care (ECEC) system that provides effective access to at least two days per week of subsidised high quality ECEC to all children, regardless of their parents' workforce participation; ensuring user friendly access for disadvantaged groups and those in remote and regional Australia**
- 2. Restoration of Commonwealth funding for the National Quality Agenda including funding for the Australian Children's Education and Care Quality Authority;**
- 3. A guarantee of continued funding for the National Partnership on Universal Access to early childhood education for four year olds and an extension of this Partnership to three year olds; and**
- 4. Improved pay and conditions for all ECEC educators, with movement towards pay parity for early childhood teachers compared with their peers in primary education.**

Aged care and disability support services must likewise be of a high quality and funded at a level that can achieve the best outcomes for clients and their families. Both aged care and disability support systems have undergone significant reforms in recent years. In aged care, multiple reviews have been held including reviews of *the Aged Care (Living Longer Living Better) Act 2013*, into the quality regulatory process and framework, the aged care workforce, and the aged care funding instrument. Additional consultations have also been held around reforms in home care. Recent investigative reports on extremely poor and negligent care provided by some aged and disability services produced public outcry. The establishment of a Royal Commission into Aged Care Quality and Safety in October 2018 and more recently a government announcement of a Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability reflects growing public concern about the quality of aged and disability care services. In particular, there has been significant community concern around inadequate staffing levels and insufficient time allocated to workers to provide good quality relationship-based care. The development of a single quality framework in aged care with a focus on outcomes for service users is currently underway.

The National Disability Insurance Scheme (NDIS) creates a managed market for disability services and has replaced block funding with individualised supports for eligible people with disability. The NDIS has been phased in rapidly, with trial sites put in place in 2013 and full implementation due across Australia by 2020. Implementation and design problems are currently producing inequities and poor outcomes for some people with disability and their families (Joint Standing Committee on the National Disability Insurance Scheme 2018; Mavromaros et al 2018). The NDIS reforms require closer governance, management and review and pricing issues need to be addressed to ensure the new system can achieve its aims.

## We recommend

1. **Robust regulatory and accountability frameworks that protect the quality of care and the effective and equitable spending of public funds in the aged care and disability sectors;**
2. **Reform in the aged care sector that is based on co-design principles, occurs at a pace that ensures full evaluation of outcomes, and takes account of the voices of service-users, their families and sector workers;**
3. **The development of aged care benchmarks that recognise the importance of decent working conditions and time to care in providing good quality care; and**
4. **An effective and equitable National Disability Insurance Scheme that produces consistent and high quality support outcomes for people with disability and addresses carer needs; including through capacity building, support co-ordination, outreach and independent advocacy for people with disability and for carers.**

## The Care Workforce

**H**IGH QUALITY CARE services can only be delivered by a high quality care workforce that is well trained, properly paid and well supported. Jobs in health care and social assistance, such as child, aged and disability care, are projected to make the largest contribution to employment growth, accounting for more than a quarter of all new jobs between 2018-2023 (Department of Jobs & Small Business 2018). However, many jobs in this female-dominated workforce are undervalued, low-paid, casual and insecure. Low pay in the ECEC workforce leads to regular loss of experienced skilled staff who leave the sector to pursue higher paid jobs (Irvine et al 2018). The recommendations of the Productivity Commission (2015) to subsidise unqualified nannies, while excluding any support for qualified workers providing similar hours and flexibility of care in Family Day Care settings, has contributed to the devaluing of the ECEC workforce and lack of recognition for the skills and training required to provide quality care. Similarly, under the NDIS systemic under-pricing of care services and lack of funding for training and supervision of the care workforce undermine the pay, working conditions and quality of care support that can be provided to clients (Cortis et al 2018; NDS 2018). Home and Community Care for the aged faces similar challenges. Current funding models do not provide adequate support for frontline workers delivering aged care, disability support and early childhood education. Improved working conditions for the care workforce are essential for the delivery of the high quality services that are valued by the community and vital to individual and family wellbeing (de Henau 2016; Armstrong 2016). Low wages, insecure work conditions and limited or no support for training for care workers in these sectors could be addressed through a more robust floor of minimum standards and through sector wide bargaining.

A new development in the Australian care workforce is our growing reliance on migrant workers. Australian Census data and industry surveys report increasing numbers of migrants working in care occupations (Adamson et al 2017; Howe et al 2019). Between 2011-2016 there was a significant increase in the proportion of the frontline care workforce born outside Australia working in the residential aged care, aged care and disability support home care and early childhood education and care (ECEC) sectors (Eastman et al 2018). It has been estimated that there are around 10,000 *au pairs* based in Australia mostly on working holiday maker visas (Berg & Meagher 2018). Increasingly, migrants working in frontline care come from non-English language speaking background countries such as India, the Philippines and Nepal.

Traditionally, the focus of Australia's skills-based migration system has meant few direct pathways into frontline care work. However direct pathways, such as the Pacific Labour Scheme (PLS) launched in July 2018 have created new opportunities for employers to source temporary migrant workers from the Pacific Islands for the sector. Temporary migrant workers are particularly vulnerable to low wages and poor conditions (Berg 2015; Berg & Farbenblum, 2018; Andersen 2010). Improving wages and employment conditions in ECEC, disability support and aged care for all workers will offer important protections to migrant workers. In addition, particular attention must be paid to the unpaid care responsibilities of temporary and recently arrived migrant workers. For example, international students who work in the care sector do not have access to Child Care Subsidy or Parental Leave Pay to balance their paid work and unpaid care responsibilities in Australia. PLS workers are not allowed to bring their families to Australia while they work. These workers require special measures in order to maintain close family and community relationships and responsibilities. These may include extended carers leave, support for daily communication or travel support (Hill et al 2018). The recent federal government shift towards temporary migration policies must include measures to address family care responsibilities and the rights of children left behind.

## We recommend

1. **Equal pay for care workers through gender equality reforms in the industrial relations system including in the objects of the *Fair Work Act 2009*;**
2. **Improved minimum standards in care awards and collective bargaining reforms that enable sector-wide bargaining for care workers and require the engagement of funding bodies as well as employers;**
3. **Care workforce strategies that include decent work for care workers as an objective and that are developed, implemented and evaluated in consultation with all parties, including workers and their unions;**
4. **Adequately funded education, care and support systems that provide for frontline worker training and accreditation and opportunities for development and pathways to higher-paid jobs; and**
5. **Recognition of and support for the family responsibilities of care workers (and those working in other sectors) coming to Australia as temporary migrants.**

## Gender Pay Equality

**T**HE UNEQUAL DISTRIBUTION of time women and men spend doing paid work and unpaid care is, in part, due to the gender wage gap (GWG), which is a persistent feature of the Australian labour market. Improvement has been incremental, uncertain and slow. In May 1991, the GWG for full-time ordinary earnings was 15.9% and twenty-seven years later in May 2018 it was 14.6% (equal to a \$248.80 per week gap). The GWG is wider for full-time *total* earnings (18.0%) and grows to 32.5% for average total earnings, reflecting women's higher representation in part-time employment (ABS 2018a).

The national GWG for full-time ordinary time earnings obscures differences between industries and between the public and private sector. Most recent data show the highest GWG is in Finance and Insurance Services at 26.6%. The lowest gap is in Public Administration and Safety (5.8%). The GWG in the private sector (18.4%) is higher than in the public sector (10.5%). Reflecting women's under-representation in higher paid managerial positions, the GWG for total remuneration for managers was 27.2%, while that for non-managers is 19.7%. For managers, the average total remuneration dollar difference was \$52,597 (WGEA 2018).

Only a small proportion of the wage differences between women and men can be explained by differences in education and work experience or other productivity related characteristics (Borland & Coelli 2016; Preston & Birch 2018). Contributing factors to the gap continue to be the undervaluation of feminised work and skills, differences in the types of jobs held by men and women and the method of setting pay for those jobs, and structures and workplace practices which restrict the employment prospects of workers with family responsibilities (Layton et al 2013). How wages are set in Australia also has a direct impact on women's wages. In Australia, modern awards set sector specific minimum wages which are close to the minimum wage, while enterprise agreements and individual wage setting arrangements typically provide higher average wages than awards. Women are increasingly dependent on awards and are more reliant on awards than men (28.9% compared to 19.6%).

Award reliance is particularly decisive for permanent part-time and casual workers. These workers, both female and male, are more likely to be dependent on an award, rather than a collective agreement or individual arrangement, compared to permanent full-time workers (Charlesworth & Smith 2018).

Critical to persistent gendered inequality has been the failure of labour law provisions to address gendered undervaluation of feminised work that underpins much of the GWG in any sustained way. Minimum wages have not kept pace with average weekly earnings and women remain underrepresented in enterprise bargaining and other higher-wage arrangements. Provisions designed to modernise awards have not been used to take up the opportunity to revalue feminised work and address those working time standards that disadvantage part-time and casual workers. The National Employment Standards (NES) only partially addresses this disadvantage as the NES only provides basic safety net protection. The provisions in the *Fair Work Act 2009* that enable the Commission to make equal remuneration orders have been successfully used on only one occasion (2011 and 2012 FWC Social and Community Services decisions). Through more recent proceedings (2015 FWC Interim ECEC decision), the Commission has enforced a standard where women are required to prove their claims by comparing their pay to male benchmarks, significantly reducing the opportunities for women to make equal pay claims and for labour law to address the ongoing undervaluation of feminised work (Charlesworth & Smith, 2018).



## We recommend

1. **The Australian Government establish equal remuneration as an explicit objective of the *Fair Work Act 2009*;**
2. **The equal remuneration provisions of the *Fair Work Act 2009* be amended so that the Fair Work Commission can hear applications that address gender-based undervaluation. Where gender-based undervaluation is demonstrated the Commission be empowered to set new rates of pay that properly reflect the value of the work;**
3. **The objectives of the *Fair Work Act 2009* that address modern awards and the National Employment Standards (NES) must be amended so that awards and the NES are able to provide a broad and inclusive framework capable of providing improved wages and conditions; and**
4. **The equal remuneration objective in the *Fair Work Act 2009* must be explicitly monitored through the modern award review process and systemic inequalities, including differences between male-dominated and female-dominated awards in areas such as the definition of ordinary hours and the payment of penalty rates, and women's lower access to enterprise bargaining, must be addressed.**

## Safe Workplaces

**S**AFE WORKPLACES are essential for gender equality in work and care. Despite comprehensive laws in Australia, sexual harassment persists and those affected remain reluctant to report it (AHRC 2018). The #MeToo movement has exposed the pervasive nature of sexual harassment and gender-based violence – any act or threat that inflicts physical, sexual, psychological or economic harm on workers because of their gender (Cruz & Klinger 2011) – in workplaces of all kinds. A number of major surveys of sexual harassment and assault in key Australian institutions, including universities, the Australian Defence Force, and the Victorian and Federal Police forces, have highlighted the complex ways in which multiple forms of gendered harms and inequalities (sexual harassment, sex-based bullying, everyday sexism, predatory behaviour) are present in the workplace and can limit women worker's access to career progression and economic security. The current Australian Human Rights Commission inquiry into workplace sexual harassment is expected to provide additional evidence of the nature and scope of the problem.

The urgent need to provide safe workplaces free of all forms of gender-based violence is being pursued in global forums through the proposed International Labour Organization (ILO) Convention on violence and harassment in the world of work. The draft Convention text emphasises a collective occupational health and safety (OH&S) approach to preventing and responding to all forms of gender-based violence (ILC 2018). While the proposed Convention provides a useful framework, much of Australia's current OH&S regulation does not provide the basis for the proactive and collective action needed to prevent and redress gender-based violence. Although physical and non-physical violence in the workplace, such as verbal threats, fall within the remit of OH&S regulation, if that same violence reflects gendered hostility or has a sexualised dimension, OH&S protections are much more difficult to use.

In the absence of responsive OH&S provisions, those who experience gender-based violence are left to seek remedies through anti-discrimination mechanisms. These approaches have significant limitations, individualising the harms caused by sexual harassment and sex-based harassment and contributing little to changing organisational structures that underpin gender-based violence or providing broader systemic solutions to workplace gender inequality (McDonald & Charlesworth 2013).

There are growing calls in Australia for workplaces to share the responsibility of monitoring and addressing gendered violence in a proactive, collective and systemic way through OH&S regulation. Explicit provisions in OH&S regulation that acknowledge gendered violence as a serious risk, like other types of occupational violence, with mechanisms that support prevention and allow workers to pursue injury claims that arise from such hazards will support gender equality in work, care and family life.

## We recommend

1. **National and state-based occupational health and safety laws to explicitly recognise gender-based violence, mandating prevention and complaint mechanisms to address it; and**
2. **The Australian government support the adoption of the proposed ILO Convention on Violence and Harassment in the World of Work at the 2019 International Labour Conference.**

## Institutional support for decent work and decent care

**P**UBLIC INVESTMENT in planning and evaluating care infrastructure is essential for the development of comprehensive and equitable work, care and family policy in Australia. It is also essential to the future living standards of Australians, economic productivity and social inclusion. This will require a whole of government approach and relies on the building of an adequate revenue base with which to pay for good social infrastructure for all.

Up-to-date and comprehensive data is essential for the development of an integrated, research-informed approach to work, care and family policy. The importance of good data for policy design, implementation and evaluation cannot be overestimated. Good research through piloting, continuous evaluation, and an ongoing program of policy development are critical to cost-effective change that supports all Australian households to work and care well. Time-use data and pay gap data are critical for understanding the ways in which unpaid care and paid work are distributed and rewarded across diverse socio-economic settings. Gender reporting in the private sector is also necessary to ensure transparency and accountability.

Since the completion of the major evaluation of the NDIS, the National Disability Insurance Agency (NDIA) is the only body collecting national-level data on the NDIS and its outcomes. However, the data is not publicly available. In order to understand the impacts of the NDIS and continue to improve the scheme for people with disability and their families and carers, it will be important the NDIA collect robust data and make it publicly accessible (Hamilton et al forthcoming).

The Australian Bureau of Statistics occupational (ANZSCO) and industry (ANZSIC) classifications are increasingly inadequate in accounting for the rapidly growing employment of frontline care workers in aged care, disability support and ECEC. This directly constrains the development of government policy, planning and future strategies in these three sectors. Lack of disaggregated data makes it difficult for policy makers to accurately track the characteristics and features of employment in these industries. While industry level data is available for residential aged care, data on home care for the aged, disability support, and ECEC industries is not available with these services grouped only at the aggregated level of 'other social assistance'. The ANZSCO *occupational* classifications designate the frontline occupations of 'child carer', 'aged and disabled carer', and 'personal care assistant' as 'low-skilled' (Level 4). This assessment under-recognises the skills required in this work and has a direct flow-on to migration policy, based on ANZSCO definitions of skill, limiting transition to permanent residence of those assessed as working in level 4 or 5 occupations (Howe et al 2019).

Better work, care and family outcomes in Australia rely not only on government policy, but on positive workplace leadership by employers. Having time to work and time to care requires employers to promote sustainable job design, secure work conditions and a workplace culture that supports carer responsibilities. Workers whose employment is insecure or whose workplaces do not have a history of flexible working practices, do not make use of their right to request flexibility at work fearing their supervisor will view such requests negatively or perceive them not to be serious about their work (Skinner et al 2016). Current research on fathers and their uptake of flexible working hours and paid parental leave show that workplace culture often lags policy development. Too many new fathers continue to report their workplaces are not supportive of their use of parental leave and they fear it will undermine career advancement (AHRC 2014; Wells et al 2015). Discrimination against pregnant workers, working carers, older employees and those affected by domestic violence are critical areas requiring active workplace leadership and cultural change. The success, productivity, security and well-being of our aging and increasingly female workforce requires positive leadership at the workplace level.

## We recommend

1. **Establishing a Federal Agency for Work, Care and Community responsible for the overarching design and implementation of equitable work, care and family policies. This would include systematic research and the ongoing evaluation of work, care and family policy challenges facing Australia;**
2. **Provision of adequate funding to maintain existing data sets and research capacity to investigate changes at work and in Australian households. This includes immediate reinstatement of Australia's Time Use Survey and extension of the data collection and analysis capacity of the Workplace Gender Equality Agency; including monitoring and reporting on the uptake of parental leave and flexible work by men;**
3. **The National Disability Insurance Agency collect and make publicly available national-level data on the NDIS and its outcomes; and**
4. **The Australian Bureau of Statistics review its ANZSIC and ANZSCO classification structures to ensure that care services are sufficiently and accurately disaggregated and described and that occupational classifications, particularly for frontline care workers, reflect the increasing complexity and skill level of the work that is undertaken.**

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