



ASU Submission

Australian Public Service Commission

Maternity Leave (Commonwealth Employees) Act 1973

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Contents

The ASU.....	3
Executive summary and recommendations	3
Current provisions.....	3
Learning from leading global practice	4
Conclusion.....	6

The ASU

The Australian Services Union ('ASU') is one of Australia's largest unions, representing approximately 135,000 members. ASU members work in a wide variety of industries and occupations in both the private and public sector.

The ASU represents employees who work as electorate or personal staff to support parliamentarians.

Executive summary and recommendations

The review of the Maternity Leave (Commonwealth Employees) Act 1973 ("the Act") is well overdue.

The recent Set the Standard, Report into Commonwealth Parliamentary Workplaces¹ highlighted the need for the Commonwealth to serve as a model employer for others as well as striving to set leading workplace practices that demonstrate positive and measurable improvements towards gender equality. We agree.

The Report included recommendations to combat diversity, equality and inclusion amongst parliamentarians and their staff as well as developing strategies and targets to increase gender equality.

To drive change, the Commonwealth needs to invest deeply in all aspects of diversity, equality and inclusion and this includes paid parental leave. The Commonwealth Government should increase paid parental leave (PPL) to 26 weeks as well as ensuring superannuation contributions are made during PPL.

Modern families do not fit into a single mould. A progressive parental leave policy should accommodate all types of families with any amendments bringing the Act in line with international best practice and making the Commonwealth an employer of choice. There is an urgent need for the Act to adopt inclusive language to replace discriminatory gendered language. The leave entitlements provided by the Act must extend to adoption, surrogacy, and fostering leave provisions.

Additionally, the ASU's members in parliamentary and electorate offices report that there are significant practical barriers to taking paid parental leave. In many cases, there is insufficient funding to provide casual cover for periods of paid leave that are taken in conjunction with paid and unpaid leave entitlements.

Recommendations

1. The Commonwealth should be a leading employer with progressive, generous, flexible and inclusive parental leave policies.
2. The Act must use inclusive language that reflects the full diversity of Australian families.
3. Paid parental leave should be increased to 26 weeks.
4. Superannuation should be paid on all paid parental leave.

Current provisions

The Maternity Leave (Commonwealth Employees) Act 1973 provides a minimum of 12 weeks paid maternity leave. In addition, members of the ASU employed under the *Commonwealth Members of*

¹ Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces

Parliament Staff Enterprise Agreement 2020-23 received an additional 4 weeks paid leave to be taken immediately following the period of maternity leave provided under the Act.

The EBA also provides 16 weeks paid adoption leave for employees who adopt a child, along with 2 weeks paid supporting partner leave for employees whose partner has given birth to or adopted a child.

The Act needs to be updated towards a shared, gender-neutral, inclusive approach to parental leave. We believe a shared parental leave scheme which provides fathers and mothers - including same sex parents - equal access to leave and tackling gender bias by eliminating unhelpful definitions which force parents to decide who will be the primary versus secondary carer will create a more inclusive workplace.

Learning from leading global practice

Providing contemporary, equitable and supportive arrangements for both parents that allow men and women to be both caregivers and financial providers, is a key way to advance gender equality. As the modern Australian family evolves, so too does its needs and more parents are looking for an organisation that allows flexibility and encourages work and life integration.

As a leading employer, the Commonwealth should implement the following provisions into the Act:

Move away from separate leave types to an all-encompassing parental leave policy

We need to take steps towards parental equality and eradicate the terms primary and secondary caregivers. Some businesses in the private sector have done this, making parental leave policies gender-neutral, more flexible and easier for both caregivers to access.

Remove gendered terminology and use non-gendered language

An inclusive parental leave policy should include people of all genders, all family structures, and all forms of parenting. Leave policies that reflect diverse demographics and are inclusive of, among others, single parents, same-sex parents, parents who adopt or conceive via surrogacy, stepfamilies, and families where the caregiver is a man, can ensure no-one is left behind.

Make it inclusive of pregnancy loss at all stages

Tragically, 103,000 Australian couples experience an early pregnancy loss each year². Pregnancy loss is a deeply saddening experience, which needs to be incorporated into progressive parental leave policies. Many private corporations have started to introduce paid leave for families that experience stillbirth and miscarriage.

Further, providing access to paid reproductive leave for IVF/fertility treatment recognises the needs of those undergoing such treatments.

Make it flexible

Allow parents to take the leave simultaneously or consecutively, in one chunk or many, full-time or part-time over a longer period. Parents also need to be able to choose how they take parental leave.

Insisting that a parent take only one block of leave in the first six or 12 months of a child's life does not work for all families. Employees might prefer to work a two-day week for a period of time or take a few weeks at a time over a 12-month period.

² <https://www.pinkelephants.org.au/page/118/fertility-in-the-workplace>

In addition, flexible working options must be supported, including Job Share Options, Part-Time, Flexi or Reduced Hours and Compressed Work Weeks.

Make it long enough

The Productivity Commission has recognised “there is compelling evidence of health and welfare benefits for mothers and babies from a period of postnatal absence from work for the primary caregiver of around six months. There are also reasonable grounds to expect benefits from longer periods of exclusive parental care up to nine to 12 months.”³

The Commonwealth should be moving towards a paid parental leave scheme that matches the best in the world. We believe 26 weeks is the acceptable and appropriate length of time for paid leave to provide support and care.

Pay super on PPL

The failure to ensure superannuation contributions are made during PPL by both employers and the government remains a weakness of the current scheme with long-term negative consequences for women’s retirement savings. In addition to the persistent gender pay gap, the absence of superannuation during parental leave embeds lower lifetime earnings and retirement income for women.⁴

Whilst the structure of the retirement system does not directly discriminate against women, it operates to magnify the pay gap between men and women. This is because women generally work in lower paid jobs, are paid less, do less paid work and more unpaid work and therefore have lower compulsory and voluntary superannuation contributions. Carers who take extended breaks from the workforce, and often return part-time, are significantly disadvantaged in a system that only values paid full-time employment.

Superannuation contributions should be made for periods of paid parental leave.

Attracting and retaining talent

Paid parental leave is a way of attracting and retaining talent and addressing skill shortages. It also has the effect of promoting diversity and inclusion in the workplace and supporting gender equality and non-discrimination.

Sufficient funding to cover back-fill

Our members have expressed the need for sufficient funding to cover back-fill in electorate offices.

Currently, each Parliamentarian is provided with approximately 4.5 positions to staff their respective electorate offices. This number varies slightly for larger electorates who may be entitled to additional offices to service large geographical boundaries.

Four of these positions are FTE positions set against pre-determined classifications, and the additional amount (roughly .5-.8 FTE) is serviced out under Electorate Support Budgets (ESB).

The ESB funds all casual employment within offices including temporary appointments to fill in annual/personal/additional leave etc.

³ Productivity Commission report on Paid Parental Leave [2009]

⁴ 36 The University of Sydney, Election Benchmarks 2016 [online] Accessed at:

http://www.workandfamilypolicyroundtable.org/wp-content/uploads/2016/05/Work-Care-Family-Policies_Online_s.pdf

E.g. if a MOP(s) Act employee is intending on using additional annual/personal leave to extend a period of parental leave, their employer may not have the money left in their ESB to ensure the office is appropriately staffed in an employee's absence.

Conclusion

The Commonwealth has a positive role to play in bringing about change. By implementing progressive workplace policies and actively promoting men and women as equal carers, the government can lead the way for all Australian organisations.

By allowing employees to take paid parental leave, Commonwealth workers are able to provide vital care for themselves and their loved ones, ultimately leading to healthier, happier employees who are more likely to remain loyal, be productive, and have high levels of job satisfaction. In updating the Act, the Commonwealth should be deliberate in: utilising inclusive language that takes into account diverse family structures; remove gendered terminology; include pregnancy loss provisions; is flexible; provide 26 weeks paid leave; pay superannuation during paid leave; and ensures sufficient funding is available to cover back-fill in electorate offices.