



INDEPENDENT EDUCATION UNION OF AUSTRALIA

SUBMISSION TO PRODUCTIVITY COMMISSION

INQUIRY INTO PAID MATERNITY, PATERNITY AND PARENTAL LEAVE

June 2008

1. Executive Summary

- 1.1 The IEUA strongly supports the establishment of a national system of paid support for the primary care giver funded by government and employers.
- 1.2 The IEUA recognises the current International Labour Organisation standard for a minimum period of maternity leave of 14 weeks. However, the IEUA believes that a longer period of leave is more appropriate in providing time for the care of the mother's wellbeing and care and support for the development of the child and thus supports six months (26 weeks) of paid leave.
- 1.3 The IEUA supports access by all employed women to 26 weeks paid maternity leave at the rate of pay which they received prior to commencing their maternity leave, regardless of the vagaries of geographic location or size of employer.
- 1.4 This payment should be available to all working women who take leave to give birth or adopt a baby, with no artificially imposed qualifying periods. A woman's entitlement to paid maternity leave should rely only on evidence of the existence of an employment relationship.
- 1.5 The IEUA believes there are significant social policy and equity reasons for women who work in casual and temporary positions, as well as those who are in permanent full-time or part-time roles, to have access to paid maternity leave at their salary level prior to their commencing leave. Any paid maternity/parental leave scheme must provide eligibility to the very substantial number of women who are employed on short term contracts, with multiple employers or are employed casually over a sustained period of time.

- 1.6 The IEUA believes that the role of parenting is a shared responsibility in a contemporary family setting and thus leave payments should be flexible so that partners and/or alternative carers, if they are acting as the primary carer of the child, can access the provision.
- 1.7 The IEUA supports a model which combines a government contribution and an employer levy and is secured through National Employment Standards. All payments should include at least the statutory rate of contributions to superannuation as a safeguard for a parent's retirement.
- 1.8 The IEUA is strongly of the view that there are economic and social benefits for business and the community in supporting women's equal participation in the workforce through higher levels of female employment and the retention of their skills in the workforce.
- 1.9 The IEUA believes there should be a contribution by all employers to a system of paid maternity/parental leave, including those which might be defined as 'small business'. Phase-in arrangements over a period of time, as well as tax-break incentives would allow all business to factor the costs of their contribution to the national scheme into the operation of their enterprise.
- 1.10 The IEUA opposes the concept of an employee contribution to a paid maternity/parental leave scheme, believing that women and their families already contribute a significant amount in terms of actual expenditure and foregone earnings.
- 1.11 The IEUA believes that the method and timing of the payment should replicate as far as possible the employee's pay arrangements at the time of commencing leave. However, our Union supports flexible options which recognise women's needs at the commencement of leave and rejects any proposal that full or part payment of the leave be dependent upon return to work.
- 1.12 The IEUA believes that the practical operation of the scheme needs to be administratively simple and that the payment for maternity/parental leave should be linked to the workplace without onerous requirements by either the employee or employer in relation to dealing with agencies such as Centrelink.
- 1.13 The IEUA believes that paid maternity/parental leave should be seen as genuine paid leave and consequently should be counted for the purposes of accruing annual, sick and long service leave entitlements, superannuation and incremental salary progression.
- 1.14 The IEUA urges recognition of the significant issues associated with women's return to work after maternity leave. These include access to flexible arrangements such as part-time work and job share or other options which enable women and their partners to balance work and parenting commitments. Provisions to support breast feeding, such as access to private room and refrigeration and as well as work breaks should also feature within a return to work conditions.
- 1.15 The IEUA believes there should be greater access to periods of unpaid maternity/parental leave and either parent to be entitled to access unpaid family leave in blocks of time up to the time their child reaches school age.

- 1.16 The IEUA supports the right to access long service leave or annual leave in conjunction with any paid maternity/parental leave.
- 1.17 The IEUA recognises the different family choices made by women, and encourages the Productivity Commission to give consideration to mechanisms to ensure that no women is excluded from government support due to the nature of her employment, whether it be paid or unpaid.

2. Introduction

The Independent Education Union of Australia (IEUA) welcomes the opportunity to contribute to this Inquiry into Paid Maternity, Paternity and Parental Leave.

The IEUA is the federally registered union representing over 65,000 education professionals (teachers and other education staff) in the non-government education sector, over 70 per cent of whom are women. The IEUA is responsible for negotiating awards and agreements which include the provision of entitlements such as parental leave, family leave, carers' leave and maternity leave. These are entitlements which are central to a worker's capacity to balance their work and family commitments.

In preparing this interim submission, the IEUA Women's Committee has drawn upon the experiences of many of our members who have contacted our Union with concerns in relation to pregnancy and work. The submission is also informed by the process and outcomes of negotiations with non government employers in relation to the inclusion of paid maternity leave into Enterprise Agreements. As well as this submission, we draw upon the IEUA submission to the Sex Discrimination Commission in July 2002 *'Valuing Parenthood: Options for Paid Maternity Leave Interim Report 2002'*.

3. The Non-Government Education Sector

The non-government education sector is diverse. There are approximately 2,650 non-government schools across the country employing over 100,000 teachers and support staff. The sector also comprises early childhood centres, pre-schools, long day care centres, English Language Colleges and private training providers.

A large majority of non-government schools are affiliated with and operated by particular religious groups, the largest of which is the Catholic Church which employs over 70% of staff in the sector.

There are over 800 employing authorities in the non-government sector including those schools which form part of the Catholic, Anglican and Lutheran systems and also over 780 separate independent school authorities.

The size and diversity of the sector impacts on the industrial context and the salary and working conditions which have negotiated into awards and collective agreements across the schools and systems in all States and Territories reflects a similar complexity and diversity.

4. Context

Since 2002, Australia and the United States have been the only two OECD countries without government supported paid maternity leave. This situation cannot continue to be left unaddressed.

Substantial national and international research exists which demonstrates that a nation's economic and social interests and strategic competitive edge for business are advanced by ensuring that fair and just public policy exists for women in the workforce.

Attachment 1 provides a summary of the maternity/family leave provisions, both paid and unpaid, across the non-government sector in Australia.

An analysis of these provisions shows that our Union has had many successes in negotiating paid maternity/family leave on behalf of its members.

However, coverage varies and the provisions are varied in terms of the length of the period of leave and the conditions applying to it such as the length of service required before qualifying for the leave.

More problematic, is the reality that there remains a substantial number of staff in non-government educational institutions who have no access to paid maternity/parental leave.

IEUA supports the introduction of a scheme which will provide access to paid maternity/parental leave to all women regardless of their workplace or whether award/collective bargaining provisions have been achieved.

Further, the IEUA recognises the different family choices made by women, and encourages the Productivity Commission to give consideration to mechanisms to ensure that no women is excluded from government support due to the nature of her employment, whether it be paid or unpaid.

The IEUA welcomes the inquiry by the Productivity Commission and puts forward the following as a response to the Issues Paper (April 2008).

5. Objectives

What ought to be the objectives of a paid parental leave scheme?

The IEUA recognises the multiple benefits of a paid parental leave such as:

- Improved paid equity by significantly reducing periods of unpaid work;
- Providing a greater work/life balance to family;
- Reduction of financial and emotional stress on employees with families;
- Maintaining the woman's longer term attachment to the workforce;
- Maintaining superannuation contributions and thus a woman's ability to prepare for retirement;
- Maintaining skilled and experienced staff in a workforce.

However, the primary objective of paid maternity/parental leave must be seen as providing financial support to a mother during the prenatal and early developmental stages so that she can recover physically and psychologically while establishing feeding and parenting routines and emotional bonding.

While this remains the primary objective of any paid scheme, the importance of a second parent or alternative carer in early childhood development cannot be overlooked and must be recognised through flexible accessibility arrangements for both mother and second parent/alternative carer.

Parenting in a contemporary family setting is a shared responsibility and a paid parental leave scheme should be flexible enough to recognise the role of the partner/alternative care giver acting as primary care giver. In many family settings including indigenous families, the child is supported by a member of the extended family. The continuation of reliance on other forms of paid leave such as annual and long service leave, so that someone (parent or alternative carer)other than the mother can access paid leave to be able to care and support the development of the child is not desirable nor does it recognises the nature of contemporary families

6. Eligibility

What type of eligibility tests should be established? Who should be eligible?

Should the rate of payment be linked to the employee's wage?

It is well recognised that the support during the early childhood years is essential for the overall physical, emotional and mental wellbeing of a person in later life.

Paid maternity/parental leave should not be viewed as a reward, accessible through longevity of employment at a workplace or through employment status.

Paid maternity/parental leave is a crucial and central response of employers and governments to supporting the wellbeing of families within the community.

The IEUA supports access to paid maternity/parental leave to all women at the rate of pay which they receive prior to commencing their maternity leave.

This payment should be available to all working women who take leave to give birth or adopt a child with no artificially imposed qualifying periods.

Attachment 1 outlines the various paid and unpaid parental leave provisions contained within Awards/Agreements for non-government schools across the States and Territories which has been achieved through the collective negotiations of the various IEUA branches.

It needs to be recognised that some Independent and Christian schools are yet to provide any form of paid maternity leave to their employees and thus there are significant equity issues for women who work in schools where little or no paid maternity leave is available.

There are also significant equity issues for women in casual ,temporary positions or have worked short term contracts with multiple employers. Even women who have a long history with an employer can be denied access to maternity leave if they change employers and discover that they are pregnant before the usual 12 month qualifying period

These issues will continue while paid maternity leave continues to be viewed as an employment 'bonus' and not as an essential community issue supported by government.

7. Length of Period of Leave

***How long should a parent receive paid parental leave for?
What benefits arise from longer periods?***

The IEUA acknowledges the ILO Convention C183 standard for a minimum of 14 weeks maternity leave.

However, we further acknowledge the WHO statement to the International Labour Conference in June 2000 which demonstrates evidence to support longer absences from work to care and support child and mother.

One of the main impacts of parental leave is on the time a mother takes away from work to recover from the birth, bond with her baby, breastfeed and monitor the baby's welfare.

This period of absence from work after birth is of the utmost importance to the health of the mother and the infant. This is conducive to both the optimal growth of the infant and the bonding between mother and infant. Absence from work also allows the mother to recover.

The time needed depends on the mother's health before, during and after birth, as well as on the health of the infant. After delivery, maternal health problems may arise.

Breastfeeding is also a major determinant of infant health. There is ample evidence on the advantages of breastfeeding and the wellbeing of the child and mother.

The IEUA recognises 14 weeks paid maternity leave as a minimum standard. However, supports (6 months) 26 weeks as the acceptable and appropriate length of time for paid leave to provide support and care for mother and child.

8. Payment Arrangements

Should the government contribute to the funding of the paid parental leave?

The IEUA supports a model which combines a government contribution and employer payment and is secured through the National Employment Standards. Thus securing a safety-net provision for all working women, regardless of their employment status or type of employer.

Further, the statutory contribution to superannuation should be jointly funded by the employer and government to safeguard a parent's retirement income.

As is evident from the range of paid maternity leave entitlements available in the non-government education sector, the IEUA supports the introduction of a scheme which will provide access to paid maternity leave for all women, with flexible arrangements to recognise the role of the partner or alternative carer as primary care giver.

It is essential that such a provision of paid maternity leave be made available to all eligible female employees regardless of the size of the workplace or the remoteness.

Phased in arrangements over a period of time can be considered to all businesses to factor the costs of their contributions into the operation of their school or centre.

IEUA recognises the existing UK statutory maternity paid scheme arrangements as a positive mechanism in encouraging businesses, especially small business to support paid maternity leave provisions.

IEUA encourages the Productivity Commission to explore similar arrangements which provide tax breaks and/or other incentives for businesses who implement a paid maternity/parental scheme.

The IEUA opposes the concept of an employee contribution to a paid maternity scheme. Women and their families already contribute a significant amount.

9. Leave Accruals

The IEUA considers it essential that the payment for maternity/parental leave for working parents be linked to the workplace without onerous requirements on either the parent or the employer in relation to dealing with other agencies such as Centrelink. The practical operation of the scheme needs to be administratively simple and provide payment flexibilities to the employee for receipt of salary whilst on leave.

Further, paid maternity/parental leave should be seen as genuine paid leave for the purpose of accrual of annual, sick, long service leave entitlements, superannuation and incremental salary progression.

9. Return to Work Guarantee

Should all employees who are eligible under a national paid parental leave scheme also be accorded the right to return to their previous job?

Loss of continuity of employment is a major handicap for women's career advancement and is costly in terms of reduced superannuation and other employment related benefits.

Flexible arrangements such as part-time work and job share or other options which enable women and their partners to balance work and parenting commitments are paramount to stable working conditions of women and must be provided for and protected by legislation.

The IEUA has had to protect its members in situations where they have been told that part-time work was not available or incompatible with holding a promotional position and therefore supports legislative provisions which protect the continuity of women's employment.

More positively, member experiences have also demonstrated that where flexible arrangements such as part-time and job share are available, these are readily taken up by women returning to work from maternity leave. Recent information provided by the Catholic Education Office, Tasmania, highlights the patterns of women on paid maternity leave in the period of 2006 to current date. This data (Attachment 2) shows the majority of women returning from maternity leave choose the option of part time work as a feasible re-entry to

the workforce. It also demonstrates that where such options are made available, women will return to the workforce.

10 Other provisions required to support return to work.

Further to flexible return to work options, women should have access to breast feeding facilities such as access to a private room and refrigeration as well as work breaks. In some shameful situations, IEUA members are required to express breast milk in the toilet facilities of staff rooms as there are no other private facilities available.

11 Conclusion

The IEUA supports a shared responsibility amongst employer and government to a funded paid maternity/parental leave.

The IEUA believes that such a scheme will educate and shift attitudes to be more supportive of women and their families, whilst overall providing long term benefits to the social and economic interests of the community.

Attachment 1

2008 UNPAID AND PAID MATERNITY LEAVE CONDITIONS IN NON GOVERNMENT SCHOOLS

UNPAID MATERNITY LEAVE

	NSW/ACT	VIC		QLD	SA	
	Cath/Ind	Cath	Ind	Cath/Ind	Cath	Ind
Entitlement	52 weeks, with a right to request a further 52 weeks under the “Family Provisions Test Case” clause in those systems/schools covered by NSW awards and Federal agreements. Similar entitlements and conditions exist for staff in the ACT	3 years	Schools covered by the Award which covers Teachers and School Assistants – 1 year. Clerical, admin and maintenance (not covered by award) – 1 year Award free schools – 1 year	52 weeks generally Up to 104 weeks with the expectation that the employee returns at the beginning of a term. Anglican sector Can extend unpaid leave up to three (3) years.	1 year for all categories of staff	1 year for all categories of staff
Qualifying Period	12 months service – Catholic dioceses allow “portability” of service for this purpose.	12 months service	12 months service	12 months service	12 months service	12 months service
Conditions	There is a general requirement under the NSW IR Act for 10 weeks written notice prior to commencing the leave. Employees under Federal agreements are also required to produce a medical certificate confirming the pregnancy/due date at this time	7 weeks notice	10 weeks notice	6 weeks compulsory leave following confinement	10 weeks notice prior to confinement. Can be required to commence mat leave 6 weeks prior to confinement. Fitness to Work medical cert. can ameliorate this.	10 weeks notice prior to confinement

UNPAID MATERNITY LEAVE

	WA	TAS		NT	
	Cath/Ind	Cath	Ind	Cath award/agreement	Ind award
Entitlement	2 years	1 year 2 nd year available on request. When return to work would occur before end of school year on request leave may be extended to beginning of new school year. Therefore leave may be 2 ½ years. Right to work part time until the child reaches school age.	1 year	1 year	1 year Essington has 92 weeks unpaid parental leave
Qualifying Period	24 months service/Paid 10 wks 1.9.06 12 wks 1.7.07 14 wks 1.7.08	12 months continuous service	12 months service	12 months continuous service	40 consecutive school weeks continuous service
Conditions	Leave starts 6 wks prior to birth and with medical cert required to work closer to date of confinement	10 weeks notice of expected date of confinement. 4 weeks notice prior to date of taking leave. Leave may commence within 6 weeks prior to birth but may continue to work with medical certificate. Return to work within 6 weeks of birth of child only with medical certificate.		10 weeks notice prior to confinement. Compulsory 6 weeks leave immediately following confinement	10 weeks notice prior to confinement. Compulsory 6 weeks leave immediately following confinement

PAID MATERNITY LEAVE

	NSW		VIC		QLD		SA	
	Cath	Ind	Cath	Ind	Cath	Ind	Cath	Ind
Entitlement	<p>Teachers in Catholic systemic and almost all Catholic independent schools receive 14 ,weeks paid leave, subject to some conditions in relation to leave in the four weeks before the due date of birth and to school holidays falling within the 14 week period.</p> <p>Support staff in the Catholic sector also receive 14 weeks counted as paid leave.</p> <p>Similar entitlements and conditions exist for staff in the ACT</p>	<p>Teachers in NSW and ACT independent schools have at least 12 weeks paid maternity leave which does not count as service for the accrual of entitlements.</p> <p>This has been increased to 14 weeks for those schools which have reached Federal agreements with the IEU or which are under the NSW award for independent schools.</p> <p>Similar entitlements and conditions apply under Federal agreements) for support staff and boarding staff in independent schools</p> <p>Early Childhood Staff in Early Childhood Centres employed by Kindergarten Union, Sydney Day Nursery and Catholic Centres have or are phasing in paid maternity</p>	<p>9 weeks paid mat leave – paid at the time of confinement – paid as allowance so does not accrue entitlements</p> <p>In cases where there is a subsequent pregnancy without a return to the workplace, 6 weeks is paid – if there is a return to the workplace it is 9 weeks.</p> <p>Right to work part time up to child reaching school age</p>	<p>VIEU Claim for 14 weeks.</p> <p>Most EBAs have paid maternity leave ranging from 6 weeks – 14 weeks.</p> <p>Those schools without EBAs have paid maternity leave at the lower end.</p> <p>ELICOS 1 college paid mat leave</p> <p>Business Colleges No paid mat leave</p>	<p>12 weeks paid leave after one years service. Exclusive of school vacation periods</p>	<p>Anglican 12 weeks paid leave after one year Exclusive of school vacation periods</p> <p>PMSA 12 weeks Paid leave after one years service</p> <p>Lutherans 12 weeks paid leave after one year's service. Exclusive of school vacation periods</p>	<p>12 weeks paid mat leave paid prior to taking leave for all employees</p>	<p>Lutherans – 12 weeks from January 2008 .</p> <p>Other Ind schools Pembroke is the first to offer 14 weeks from 2008 Large and main denominational schools nearly all pay 12 weeks after 12 months service. Nearly all have stopped the return to work requirement for the second half of the payment. Some are now requiring return to work service requirements before subsequent M/L payments but not necessarily in their substantive position. A few other schools still have no paid M/L available eg the two Islamic schools.</p> <p>ELICOS There is no paid mat leave for employees in ELICOS Colleges and Business Colleges.</p>

	NSW		VIC		QLD		SA	
	Cath	Ind	Cath	Ind	Cath	Ind	Cath	Ind
		leave of 9 weeks. Private and community based long day centres and pre-schools generally do not have access to paid maternity leave. ELICOS 1 College has access to paid mat leave.						
Qualifying Period	12 months service	12 months service	12 months service	12 months service	12 months continuous service (casual employment does not count as service)	12 months continuous service Other Independents Independent/ single site schools vary. Some provide no paid maternity leave others provide 12 weeks pm1.	12 months service	Lutherans –3 years continuous service Other Ind schools 12 months service
Conditions	Paid leave counts as service for salary progression and the accrual of entitlements and superannuation. Available to temp employees during the appointment provided they have a position to return to after the leave	Paid leave does not count as service for salary progression or accrual of entitlements or superannuation Available to temp employees during the appointment					Paid mat leave does not count for calculation of holiday pay/annual leave/loading/lsl/sick leave	

PAID MATERNITY LEAVE

	WA		TAS		NT	
	Cath	Ind	Cath	Ind	Cath	Ind
Entitlement	4 weeks paid mat leave to increase to 6 weeks in 2003 paid at the time of taking leave	Of the 120 schools 3 provide some paid mat leave to teachers and 1 to non-teaching staff Anglican School Commission – offers same as CEO (14 weeks). Lutheran Schools – 6 weeks.	12 weeks from 1 January 2008. Paid during the weeks of maternity leave. Payment may be half pay for double the time.	70% of all teaching staff in ind schools have some form of paid maternity leave. The majority have 6 weeks paid maternity leave with payment made as salary or as a lump sum prior to taking leave. A number of schools have a combination of less than 6 weeks paid mat leave but have access to sick leave to be used in conjunction with paid mat leave.	14 weeks paid leave paid either as a lump sum or fortnightly	Kormilda College - 12 weeks paid leave full pay or 24 weeks half pay Yipirinya School - 12 weeks paid leave Nyangatjatjara College - 14 weeks paid leave Essington College - 12 weeks paid leave Lutheran School - 8 weeks paid leave or 16 weeks at half pay Christian and Lutheran Schools have no access to paid leave
Qualifying Period	2 years service	For 1 of the 3 schools there is a qual period of 4 years service	12 months continuous service. No eligibility for further paid maternity leave for subsequent pregnancy if there has not been a return to work of at least a school year or 3 complete and consecutive school terms (excluding any periods of paid leave)	12 months continuous service	12 months continuous service	12 months continuous service
Conditions			No paid leave for adopting parents		10 weeks notice prior to taking leave	10 weeks notice prior to taking leave Nyangatjatjara College - Total leave taken can not exceed 52 weeks Lutheran Schools - Paid leave will not count towards service or incremental advancement

Reporting period: 1/1/2006 - Present

PRIMARY

14 Schools replied to survey

Applications for Mat leave	returned from m/leave	didn't return from m/leave	returned to P/T emp.	returned to F/T emp.
43	34	3	27	7

SECONDARY

7 Schools replied to survey

Applications for Mat leave	returned from m/leave	didn't return from m/leave	returned to P/T emp.	returned to F/T emp.
42	31	6	21	10