

Inquiry into Paid Maternity, Paternity and Parental Leave

Productivity Commission Issues Paper

SUBMISSION BY

***SHOP, DISTRIBUTIVE & ALLIED EMPLOYEES'
ASSOCIATION***

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SUMMARY

The SDA supports the introduction of paid maternity leave. We believe that an equitable paid maternity leave scheme should include the following elements.

1. In order for Australia to be in conformity with ILO Convention 183, the payment should be at least for a period of 14 weeks.
2. It should be an inclusive, non discriminatory payment, ie. a payment to all mothers, whether they be in the paid or unpaid workforce.
3. On the grounds of financial viability and fairness, the payment should be means tested.
4. The payment should be at least at the Federal Minimum Wage level.
5. The provision of such a payment should be the responsibility of the government.
6. Employees should have their current parental leave entitlements protected and have the right to accrue superannuation payments, long service leave, annual leave and sick leave entitlements while receiving such payment.

Women in paid employment who are not eligible to receive employer funded superannuation payments and women who are not in paid employment should also receive a government provided superannuation payment equal to 9% of the maternity leave payment on top of the paid maternity leave.

7. It would be reasonable for a paid maternity leave scheme as we have proposed to subsume in full the current Maternity Payment (or “Baby Bonus”).
8. The payment should be made weekly or fortnightly into the bank account of the mother.
9. A “top-up”, if any is required, to an employee’s ordinary time earnings funded by the employer should be part of the National Employment Standard for employees.

INTRODUCTION

The SDA is Australia's largest single trade union with a membership of over 217,000 workers. The SDA covers workers in retail, fast food, wholesaling, hairdressing, modeling, warehousing and the drugs industry.

The majority of SDA members are women and over half are aged 25 years or younger.

The workers in the industries covered by the SDA are generally regarded as low income workers and consequently SDA members are generally low income workers.

In our view, policy and action in all areas should be underpinned by a commitment to the following core principles:

- ✧ recognition that the family is the fundamental group unit of society and a key component of the nation's human capital;
- ✧ a standard of living consistent with human dignity is a fundamental right of all Australians;
- ✧ support should be provided by government to families on an equitable basis with priority given to low income families;
- ✧ respect for the various choices families make in respect of work and caring for family members.

FAMILIES ARE IMPORTANT

In framing policy, government must start from the position of seeking to protect and strengthen Australian families.

The centrality of the family is recognised in the Universal Declaration of Human Rights.

Moreover, in the development of human capital the family is central. Human capital is firstly formed within and by the family.

Strong families are important because they fulfill a range of functions such as:

- ◆ caring for and raising children;
- ◆ emotional security;
- ◆ refuge;
- ◆ nurturing and love;
- ◆ providing a place where people can find identity and value;
- ◆ socialisation skills;
- ◆ care for the sick and elderly.

Families today face many problems such as financial stress and family unfriendly workplaces.

These problems operate to turn many families into dysfunctional units. Research shows that dysfunctional families experience a wide range of difficulties such as:

- ◆ crime,
- ◆ drugs,
- ◆ suicide, and
- ◆ poverty.

Families which dysfunction put great stress and demand upon the community and the state.

Successfully functioning families are the building blocks of strong communities. Effectiveness, however, is closely linked to socio-economic factors including the level of financial and social support available.

There is an overwhelming need for government to put in place strategies to support families. Such strategies must be designed to build social and human capital by promoting families and extending their capacity to function effectively.

FAMILIES NEED FINANCIAL SUPPORT

A considerable number of families are today facing substantial economic difficulties. A large number of Australian families are living below, or close to, the poverty line.

This is not in the interest of Australia, let alone the individuals concerned.

NATSEM has shown that there are a range of factors which play a part in determining the living standards of families.¹

The type of family that individuals live in has a major impact upon their likelihood of being in poverty.²

Families with children are more likely to be living in poverty than those without children.

The larger the family the more likely it is to be facing financial hardship. Those with three or more children are twice as likely as those with one child to be living in poverty.

Those living in sole parent families continue to face the highest risk of poverty.

There is a clear link between poverty and employment. Those most likely to be in poverty are the unemployed.

Two thirds of all children living in poverty come from families whose principal source of income is government payments. Overall, the least affluent of Australia's children live in families where the head is not in the labor force, or is unemployed. Over one quarter of families with children rely principally on government transfer payments as their major or only source of income.

Families with only one income are more likely to be living in poverty than those with two incomes. The risk of poverty declines as the number of income earners in a family increases.

¹ "Australians in poverty in the 21st century", Rachael Lloyd, Anne Harding, Alicia Payne, NATSEM, University of Canberra, 2004

² "Australians in poverty in the 21st century", Rachael Lloyd, Anne Harding, Alicia Payne, NATSEM, University of Canberra, 2004

According to NATSEM gender, ethnicity, location and age are relevant factors in any consideration of the incidence of poverty.

A much larger proportion of families with children are living on incomes that are just above (less than 10% higher than) the relevant Henderson Poverty Line (HPL), suggesting that a more substantial proportion of families are at risk of poverty. Henderson regarded those with incomes of less than 20% above the HPL as 'poor'.

The percentage of disposable income expended upon necessities by the first quintile of households is significantly greater than that expended by higher quintile groups. Conversely, the proportion of disposable income expended upon food and non-alcoholic drinks, housing, household services and domestic fuel and power declines as household income rises while the proportion spent on transport, recreation, clothing and footwear and alcohol increases. This is clearly due largely to the presence of more discretionary income in higher income households.

Poverty places families under enormous strains. The absence of adequate disposable income means that families may not be able to meet the basic needs of their members. In turn this may well lead to social isolation, feelings of lack of control, low status and low self esteem.

"For their children it can mean not having a balanced diet, housing difficulties, being left out, feeling stressed, not enjoying school; and suffering from health problems".³

The Australian Bureau of Statistics in Australian Social Trends 2007 reports upon the impact of financial stress upon families. The report shows that low income people experience very different living conditions compared to the rest of the community It reports that:

- 52.1% of low income people are unable to raise \$2000 for something important in a week compared to 8.6% of all others,
- 37.8% of low income people can not pay electricity, gas or telephone bills on time compared to 7.8% of others,
- 13.5% of low income earners can not pay for car registration or insurance on time compared to 4.6% of others,

³ "Child Poverty, The Facts", Brotherhood of St. Lawrence, 2000.

- 8.9% of low income people are unable to heat their home compared to 1.2% of all others,
- 11.8% have gone without meals compared to 1.8% of others,
- 11.7% of low income people have pawned something compared to 2.3% of all others,
- 26.4% of low income people have sought financial help from friends or family compared to 7.8% of all others, and
- 14.7% of low income people have sought assistance from welfare or community groups compared to 1.2% of all others.⁴

According to the National Centre for Social and Economic Modelling, the typical Australian family in 2007 would have paid \$537,000 to raise a child from birth to age 21.⁵

For a family today, the basic average cost of raising a child ranges from \$65 per week for a child aged 0-4 to \$260 per week for an 18 to 24 year old.

The costs of children increase with their age and are also related to the overall family income and the attendant lifestyle of the family.

Food is the biggest expense in all demographics and for low-income families it amounts to a quarter of the overall cost of the child. Transport, recreation, housing, clothing and other costs, such as medical and dental, are the other big-ticket expenses. These figures do not include the estimated costs of parents' lost earnings.

Clearly children are a major expense for families. This expense grows as children become older. As such, it is important to take this factor into account when determining appropriate support payments to families.

Raising children places great financial and social pressures upon parents and families. The failure of government policy to recognise the financial burdens incurred by families with children is a major factor in why many families are struggling to make ends meet.

⁴ The Age, Wednesday, 8 August, 2007

⁵ AMP – NATSEM - AMP Income and Wealth Report, Issue 18, Anne Harding, NATSEM, December 2007.

NATSEM suggests that children born into socio-economically disadvantaged families:

- often start with below average birth weight,
- are likely to be less well nourished,
- do less well in school,
- are more prone to sickness - with inadequate emphasis on prevention,
- are more likely to become overweight and do less exercise than other children.⁶

Such children often start their lives with below average health, experience earlier onset of conditions and progression to more severe stages and on average die earlier than the rest of the population."

Ultimately poverty and the resultant fall-out can lead to social alienation and division. Families or individuals in poverty are inimical to the development of a socially cohesive nation.

Government policy must address the issue of poverty. In doing so it must be recognised that many families are in particularly difficult situations.

The central theme of any coherent approach must be to ensure that all families have an income sufficient for them to be able to live decently in dignity.

Australia Fair released figures in October 2007 which showed that the proportion of people living in poverty grew from 9.8% in 2003-04 to 11.1% in 2005-06.

The figures show 2.2 million Australians living below the poverty line. The median income was \$281 per week. Many retail workers earn less than these amounts.⁷

To try and make ends meet and to ensure that their families have a reasonable standard of living, most low and middle income families rely on two incomes, where it is open for them to do so, to survive.

According to a recent independent survey, 85% of SDA members with children say they work for reasons related to economic necessity.

⁶ AMP-NATSEM Income and Wealth Report "Health and Income in Australia", Agnes Walker, Simon Kelly, Anne Harding, Annie Abello, April 2003

⁷ Australia Fair News, 23 October 2007

It is in the national interest for government to ensure that all families can live decently with dignity, free of poverty. This is an essential pre-condition to the effective development of a nation's human or social capital.

To lessen the financial difficulties facing families and to build and strengthen the human capital of the nation, Australia should introduce paid parental leave.

In our view the introduction of paid maternity leave should receive priority consideration.

It is worth noting that the vast majority of SDA members do not use, or use on a very limited basis, long day care. A recent survey of SDA members shows that four out of five women who have young children use informal child care arrangements such as spouses, family or friends to provide care.

Given the costs of child care, the fact that most child centres do not open at nights and weekends when many retail workers are at work. And the low incomes of retail workers, that is not surprising.

For low income workers such as retail workers, the availability of paid maternity leave is a much more pressing issue.

The provision of income support to families to allow them to effectively carry out their functions should not be seen as providing handouts.

This should be seen by the government and the community as a long term investment in the future of the nation.

*"Social security is very important for the well-being of workers, their families and the entire community. It is a basic right and a fundamental means for creating social cohesion, thereby helping to ensure social peace and social inclusion. It is an indispensable part of government social policy and an important tool to prevent and alleviate poverty. It can, through national solidarity and fair burden sharing, contribute to human dignity, equity and social justice."*⁸

⁸ International Labor Organisation, Report of the Committee on Social Security, Conclusions Concerning Social Security, 6 June 2001.

If we start from the premise of recognizing the social utility of raising children and the contribution this makes to the sum total of a nation's human capital, then all women should be eligible to receive the payment.

The SDA believes that it would be grossly unfair to those women who are, for one reason or another, not in paid employment if a paid maternity leave scheme was introduced and they did not receive the benefits of it.

If only women in the paid workforce at the time of their giving birth were to be eligible for paid maternity leave many women such as those engaged in marginal or seasonal employment; those out of work due to illness, incapacity or inability to secure paid work; those who have chosen to take the role of home-maker and who are involved in raising children, or in taking care of older relatives; those who have recently commenced paid employment; and those who decide to leave paid work at the time of the birth of their child would all miss out.

Most of these women are low income earners who arguably have the greatest need for a paid maternity leave scheme.

Such a scheme would be highly subjective and discriminatory.

Any paid maternity leave scheme must be inclusive and nondiscriminatory It must be available to all mothers, whether or not they are in the paid workforce.

Current demands upon families make it very difficult for most families to survive on one income. However, it is critical that government continue to respect the right of parents to determine whether one or both of them will participate in the paid workforce.

While there is a clear movement by employers to make paid maternity leave available, the vast majority of women still do not receive it. In particular, lower paid women, those working part time or casually and those with limited service with their employer are unlikely to receive paid maternity leave from their employer.

Whatever its decision, a family should not be adversely affected by the application of government policies. All choices should be respected, including those who choose to play a role in the unpaid workforce.

Catherine Hakim of the London School of Economics, in a paper to the 2003 Australian Institute of Family Studies Conference, reported that in 1998 and 1999, the British Cabinet Office's Women's Unit organised a major research programme entitled '*Listening to Women*'. The research concluded, according to Hakim, that –

"In the absence of financial need, only 5% of mothers would choose to work full-time hours, three-quarters would prefer a part-time job, and one-fifth would prefer not to work at all.

"These results are in line with European Union surveys showing that, across all countries, the majority of mothers would prefer not to work, or to work part-time only, while their children were young.

"Full-time mothers insisted that childcare problems were not important; the reason they were at home full-time was because motherhood and parenting took a central place in their lives until their children had grown up and left home....."

*"The research programme concluded," said Hakim, "that we should stop thinking of women as a homogeneous group; that women want choices in their lives....."*⁹

It is appropriate and fair that the government fully recognise the unpaid work of parents in the provision of any paid maternity leave scheme.

The age of the youngest child affects workforce participation rates, especially for mothers.

Social researchers Mariah Evans and Johnathon Kelly have published a study which shows that the overwhelming majority of parents, in excess of 70%, would prefer to stay at home and care themselves for their pre-school age children.¹⁰

The survey shows only 2% believe that women with children under six should work full time. The study does show that by the time children actually start school, 53% of mothers are back in the paid workforce, though most are part-time.

⁹ C. Hakim, "Competing Family Models, Competing Social Policies, Melbourne, 2003.

¹⁰ "People and Place", vol.9, no.4, 2001

It is in the national interest to have a situation where as many mothers and their children are healthy and financially secure as possible.

The World Health Organisation (WHO), concerned to maximize the health and development of young children, recommends that all children receive at least some breast milk until six months of age. The capacity of women to have time off from work after delivery makes this a more achievable proposition, to the benefit of the health of the mother and the child.¹¹

A recent Melbourne University study showed that less than half of Australian children were receiving some breast milk at six months of age, and that early return to work was a factor in this.¹² The provision of paid breast feeding breaks at work would assist in improving this situation, and should be included in the National Employment Standards. “Breast feeding” should also be included in anti-discrimination legislation as a specific ground on which discrimination is prohibited.

Government policy should be aimed at facilitating return to paid employment for those who wish to do so but it should not focus on forcing mothers of school age children back into the paid workforce against their wishes.

Government policy should be to ensure that no family needs two incomes simply in order to survive and that all families are free, economically and socially, to choose whether they have one or both parents in the paid workforce and on what basis, especially when children are very young.

Post birth health of the mother and child and the developmental needs of young children would be facilitated by making it easier for parents to be able to choose how they deal with post birth situations.

Clearly such a scheme could not be employer funded, as many recipients of the payment would not have an employer or be in paid employment.

It follows that we believe such a scheme should be funded by the government.

This payment should be made by fortnightly payments into the bank account of the recipient.

¹¹ Workplace Express, 30/4/2008

¹² Op Cit

Employer “top up” payment

The primary objective of a paid maternity leave system must be the provision of a payment which is sufficient to ensure that the woman and her family are able to live with dignity during her period out of the workforce, before and after the child is born.

It is not uncommon for women to be the only breadwinner in the household or for her partner's income to be low and/or intermittent. In these situations and in many others, the family is reliant on her income to meet their commitments and will experience severe financial difficulty without it.

For many women in the paid workforce, who leave work to have their baby, even a Maternity Payment at the level of the Federal Minimum wage for 14 weeks, will be insufficient to maintain the family's income. In addition, as already stated, substantial costs are incurred by families when a child is born, especially if it is the first child in the family.

In instances where the woman's income is above that of the Maternity Payment, full wage replacement is required to ensure a financially secure period out of the workforce. It is only then that families will have a realistic choice between the woman returning to work, or remaining at home for at least a satisfactory initial period.

The SDA advocates that employers should be responsible for a top up payment to women that would make up the difference between the Maternity Payment and their ordinary weekly wages.

Since employers are the beneficiaries of women returning to their workplace, then they should pay for the incentive for them to do so.

A “top up”, if any is required, to an employees ordinary time earnings funded by the employer should be part of the legislated National Employment Standards.

We recognise that a range of employers now provide paid maternity leave to their employees. This is often part of a strategy aiming to be an “Employer of Choice” in terms of attracting and retaining staff. Staff turnover is a cost issue for all employers. Retail companies have estimated that the cost of replacing a low skilled casual employee after 3 months employment as being in the vicinity of \$4,000.

Employers who are already providing paid parental leave cite the strong business case for doing so.

Conversely many employers don't provide paid parental leave. **The family's financial well being should not be dependent on which employer the mother happens to work for.**

In terms of managing staff absences, employers are already required, under current unpaid parental leave provisions, to manage staff absences and the issues will be no different with the introduction of paid parental leave.

A scheme such as this would not have any adverse impact on labour mobility or other employment choices workers make.

A recent independent survey of SDA members shows that, of women who had taken maternity leave and returned to work with their current employer:

- 6% had returned to work in 1 – 3 weeks
- 10% had returned to work with in 6 weeks
- 16% had returned to work within 3 months
- 40% had returned within 6 months
- 91% had returned within 12 months

A number of our Enterprise Agreements provide for the opportunity to have more than 12 months unpaid parental leave. An additional 9% of women chose to do this.

Two thirds (64%) thought they had enough time off but one third (36%) would have liked to take more time off.

The vast majority of our women members work for reasons of economic necessity and this was clearly a driving force behind when they returned to work. When forced to return to work early, members have found the experience heart breaking, stressful, exhausting and very difficult for the whole family. It is concerning that as many as 10% had felt compelled to return to work with 6 weeks. It is also a shameful reflection on a wealthy country like Australia that we effectively force mothers and babies into this situation because we do not provide paid parental leave.

The federal *Workplace Relations Act 1996* includes specific provisions in regard to Parental Leave. It requires women to take a minimum of 6 weeks maternity leave after the birth of their baby. An employer may also seek a medical certificate regarding the employee's fitness to work in the 6 weeks before the expected birth of the baby. If her doctor considers that she is unfit to work, she must finish work immediately.

This is leave which the woman is compelled, by law, to take. She has no choice. And yet, she has no choice regarding meeting her financial commitments, such as food, rent, loan repayments, and medical expenses. Fairness dictates that her income is maintained for at least this period, and that this be a legislated requirement.

Any current employer funded arrangements should be seen as additional to this scheme. Current arrangements should be preserved. New additional arrangements should be the subject of negotiations by the relevant industrial parties.

Any proposal that employees somehow contribute to their own paid maternity leave scheme is unacceptable.

This would place additional financial pressures upon families at a time when they can least afford such pressure. The role of government is to support families, not increase the pressures upon them.

Low income families in particular would be severely, adversely affected if they had to fund their own paid parental leave via a levy or something similar.

A shop assistant under the Victorian Shops Interim Award as at 13th May 2008 earns \$15.29 per hour gross or \$581.02 per week, gross. Workers on incomes such as these cannot afford to have any minor surcharges impacting upon their income without experiencing disadvantage.

Any linkage between payment levels and wages is unacceptable.

This would lead to higher income earners receiving a greater payment than those on lower incomes. It would mean that part-time and casual women in particular could be worse off, let alone those not in receipt of an income for any reason.

The cost of raising a child is the same, irrespective of one's level of earnings.

Accordingly, to provide a smaller quantum of Paid Maternity Leave to those who are on lower levels of income, and presumably are already less able to fund the cost of raising children, is grossly inequitable.

The SDA membership is comprised of about 20% who are full-time workers and 80% who are part-time or casual. Most of the part-time and casual members earn less than the federal minimum wage. If our membership among women of child-bearing age follows the same pattern (and we have no reason to believe it does not), then the Maternity Leave proposal would offer less than the Minimum Wage to most of our eligible members. This would be grossly inequitable.

The level of the payment should be set so that all women receive the same amount.

The level of payment should be, at least, the rate of the Federal Minimum Wage.

However, poverty is not just absolute; it is also relative. People whose standard of living is significantly below the norm for society will always be poor in at least relative terms and be regarded as such.

Inequality in wealth is substantial and growing.

Australia's rich households are acquiring an even greater share of the nation's wealth pie as the gap between the have-mores and the have-nots continues to grow.

Australian Bureau of Statistics figures show that 61% of Australian households' wealth is owned by the richest 20% of households, while the bottom 20% of households own just 1% of the nation's total wealth.

The top 2% of Australian households has, on average, \$1.7 million in net assets whereas the bottom 20% have on average \$27,000.

The figures also show that where the real disposable income of low and middle income households grew by 8% since the last survey was conducted in 2003-4, the real disposable income of high income earners grew by 10%.

To be socially equitable, any paid parental leave scheme must be progressive in its applicability and take into account the different financial situations of different families.

The absorption of the Baby Bonus into the scheme would be a reasonable way of mitigating the cost of this scheme.

As from July 2008, the Baby Bonus payment will be \$5,000 p.a. Fourteen weeks pay at the federal minimum wage would be \$7,120 after tax.

With the introduction of a paid maternity leave scheme, employees should have their current parental leave entitlements (including the return to work rights) protected and have the right to accrue superannuation (currently at 9%), long service leave, annual leave and sick leave entitlements while receiving such payments. This would be consistent with the situation of employees taking any other form of paid leave.

Women in paid employment not eligible to receive an employer funded superannuation payment, and women not in paid employment, should also receive a government provided superannuation payment on top of the paid maternity leave.

Complimentary measures

There are a range of complimentary measures which would re-enforce the infant and parental welfare effects of paid parental leave.

Paid parental leave should be just one plank of a suite of measures to assist working families, which include:

- Workplace flexibility, including the full take up of the AIRC decisions in the Family Provisions Test Case reflected in the National Employment Standards.
- Better legislation in terms of Return to Work arrangements, which provide effective job security, especially when the employee is requesting a change from fulltime to part time status. There should be greater onus on

employers to demonstrate the necessity of demoting employees or making them casual on their return to work after parental leave.

- Provision of paid antenatal leave to attend appointments to support both mother and child well being.
- Education of employers in regard to their responsibilities when an employee is pregnant, takes parental leave and wishes to return to work to her previous position in either a full time or part time capacity. This education could include legislative requirements, flexibility options, appropriate communication and procedures, and benefits to the business of these.
- Improved protections for pregnant employees and access to swifter remedies when experiencing discrimination.
- The provision of quality, affordable, accessible child care.
- Reviewing and enacting many of the recommendations from previous Inquiries of the Human Rights and Equal Opportunity Commission: *Pregnant and Productive, It's a right not a privilege to work while Pregnant*; and *It's About Time, Women, men, work and family*.

The model we have outlined would be relatively simple to administer and therefore would be cost effective for the government to deliver.

In our view the provision of such a scheme would be of significant benefit to families and, as such, improve the care of children.

A payment for 14 weeks will have a significant advantageous impact upon most family budgets but will not be so huge that women who would otherwise return to the paid workforce will be discouraged from doing so.

In our view, the provision of paid maternity leave would encourage continued labour force attachment for many women. It would also encourage on-going loyalty to the employer. These factors would operate to encourage return to work.

In doing so, they would have the effect of reducing labour turnover, thus reducing labour replacement costs and so enable the employer to maximise the investment in the education and training of the employee concerned.

As such, the introduction of paid maternity leave would be an aid to employers.

An adequate, paid maternity leave scheme, such as the SDA has outlined, which is inclusive of all women, would provide recognition of, and support the social benefit of maternity, increase women's choices around the timing of returning to work, and support parents at a vulnerable time. It would give recognition to the important task of bearing and rearing the next generation, with particular consideration for the health and well being of the mother and baby. As such, it would be a major contribution to the building of the social capital of the nation.

The SDA calls upon the Commission to recommend the immediate introduction of paid maternity leave according to the model we have set out above.