



Queensland Nurses' Union

Submission to the Productivity
Commission's Inquiry into
Paid Maternity, Paternity and
Parental Leave

June 2008

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Introduction

The Queensland Nurses' Union (QNU) welcomes the opportunity to provide a submission to the Inquiry into Paid Maternity, Paternity and Parental Leave being conducted by the Productivity Commission. The QNU congratulates the Federal Government for empowering the Commission to deal with this issue of vital importance to nursing in Australia.

Our submission should be read in conjunction with the submissions made by our federal body the Australian Nursing Federation (ANF), and other state branches of the ANF. Whilst we do diverge from the Australian Council of Trade Unions (ACTU) submission in terms of the scheme proposed, the QNU supports the ACTU argument that "...universal paid maternity leave is long overdue."¹

About the QNU and nursing in Queensland

The QNU is the principal health union operating in Queensland and is registered in that state. The QNU is also registered in the federal jurisdiction as a transitionally registered association. In addition the QNU operates as the state branch of the federally registered Australian Nursing Federation. The QNU represents the largest number of women of any union in Queensland.

The QNU covers all categories of workers that make up the nursing workforce in Queensland: registered nurses, enrolled nurses and assistants in nursing, be they employed in the public sector or the private and not-for-profit health sectors. Our members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management.

Membership of the QNU has grown steadily since its formation in 1982 and as at June 2008 was in excess of 34,000 and still growing. Like the nursing profession as a whole, the overwhelming majority of our members are female (93%).

The QNU has a democratic structure based on workplace or geographical branches. Approximately 250 delegates are elected from the branches to attend the annual QNU conference which is the principal policy making body of the union. In addition to the annual conference the QNU has an elected council and an elected executive, which in turn have decision-making responsibilities between conferences. Council is the governing body of the union.

QNU members in the public sector are employed under a state certified agreement, namely the *Nurses (Queensland Health) Certified Agreement (EB6) 2006*. They were previously in the federal system but this changed with the advent of *WorkChoices*. In the private sector

¹ ACTU Submission to the Productivity Commission's Inquiry into Paid Maternity, Paternity and Parental Leave <<http://www.actu.asn.au/Images/Dynamic/attachments/5986/PML%20Sub%20pt%20FINAL.pdf>>, page 2 (accessed 27 May 2008)

they are employed under a variety of federal instruments. Since 1994 when no enterprise agreements were in place covering nursing workers, the QNU has become party to over 200 enterprise agreements which cover a diverse range of health facilities and other non-health establishments where nursing services are provided (eg schools, local councils, prisons and factories). We therefore have a clear and comprehensive understanding of the complexity of contemporary health service delivery as well as the diversity of locations where health services are delivered.

There are some particular and significant challenges confronting nursing and the health system generally at present relating to the national (and indeed international) shortage of nurses. No other occupational group comes close to rivalling the depth and breadth of skills shortage in nursing at present. This situation, coupled with the feminised nature of the nursing workforce, make the current campaign for universal paid parental leave of critical importance to nurses and the future of nursing.

The nursing labour force is unique in many ways. According to data from the Australian Institute of Health and Welfare (*Nursing Labour Force 2005*, released January 2008 - the most recent available data on the nursing workforce) some significant features of the nursing labour force relate to:

- **Nursing numbers:** Nurses represent a significant component of the total health sector workforce. In 2005 there were 285,619 registered and enrolled nurses in Australia (39,294 registered nurses and 7,170 enrolled nurses in Queensland). The total number of registered and enrolled nurses (including multiple registrations) was 46,464. Total registrations/enrolments should not, however, be confused with the actual number of registered and enrolled nurses in employment. Around 7% (3,235) of registered and enrolled nurses were not in the nursing labour force in Queensland in 2005.

When compared to the data available for registered and enrolled nurses, little detailed data is available on assistant in nursing employment. Data collected for the Australian Government's Nurse Education Review of 2001 identified significant growth in the Assistant in Nursing/Personal Carer classification numbers in Queensland between 1987 and 2001 (47.5% growth with total employment of this classification being around 9,900 in Queensland; 39,300 for the whole of Australia). AINs/PCAs represent around 15% of the Australian nursing workforce.

- **Gender:** Nursing remains a highly sex segregated occupation – only 8% of registered nurses and 7.1% of enrolled nurses are male.
- **The high proportion of part-time employees:** The number of registered and enrolled nurses employed in a part time capacity (less than 35 hours per week) decreased from 51.6% in 2001 to 48.2% in 2005, bucking a previous trend of slightly increased part-time work.

In 2005 the average total number of hours worked by nurses in Australia were as follows (Queensland hours in brackets): registered nurses 33.3 hours (33.6 hours), enrolled nurses 31.6 hours (32.7 hours). Part time work is more common in nursing due to the highly feminised nature of the occupation – ie nurses working part time to facilitate a balance

between work and family responsibilities. However, it should be noted that the incidence of part-time work is decreasing slightly amongst nurses. This is due, in our opinion, to significant work intensification that has occurred in nursing over the last decade.

- **The aging of the nursing workforce:** The average age of all employed nurses in Australia in 2005 was 45.1 years. This figure has increased from 42.2 in 2001. Alarming, over the same period, the proportion of nurses aged 50 years and over increased from 24.4% to 35.8%. It should also be noted that the average age of those commencing under-graduate nursing studies is also rising.

- **The high proportion of nurses who are expected to work continuous shift work:** The majority of nurses work continuous shift work to cover the 7-day a week, 24-hour a day operation of many health services. Around 62% of nurses are employed in acute care health facilities where there is more likely to be a requirement for continuous shift work to be performed. In our view this makes the nursing labour force unique – how many other overwhelmingly female occupations or professions are expected to work continuous shift work?

- **Nursing labour force is highly mobile:** The nursing labour force remains highly mobile. Nurses are readily able to move between employment settings, be this intra-state, interstate or overseas.

Current paid parental leave provisions for nurses in Queensland

Due to the overwhelming female membership of the QNU, the union's focus has largely been on obtaining outcomes with respect to maternity leave. A number of employers currently provide paid parental leave to nurses in Queensland. This entitlement varies in length of paid leave, arrangements for payment and eligibility requirements (such as qualifying periods).

The current paid parental leave entitlements negotiated by the QNU for nurses employed in health services in Queensland (excluding nurses employed in local councils, schools etc) are as follows. (Please note that for the below agreements the qualifying period for paid leave is 12 months unless otherwise indicated):

| Name of facility/industry | Current entitlement |
|---|--|
| Domiciliary industry (pursuant to the <i>Nurses' Domiciliary Services Award – State 2003</i> at Clause 7.7 Paid Maternity Leave) | 6 weeks paid maternity leave |
| State public sector | 12 weeks paid maternity leave (14 weeks from 1 July 2008). 1 week paid paternity leave |
| Private sector | |
| Akooramak Nursing Home | 6 weeks (3 weeks up front and a further 3 weeks after returning to employment for 6 months) paid maternity/adoption leave |
| Baptist Care | 6 weeks paid maternity/adoption leave |
| Betheden Nursing Home | 6 weeks (2 weeks up front and a further 4 weeks after returning to employment for 9 months if employed for less than 12 months) |
| Blue Care (statewide service) | 6 weeks for maternity/paternity/adoption leave |
| Cairns Private Hospital | 6 or 8 weeks (3 weeks up front and 3 weeks after returning for one month. If employed for more than 3 years this increases to 4 weeks up front and 4 weeks after returning for one month) for maternity/paternity/adoption leave |
| Canossa Nursing Home | 1 week paid maternity/paternity/adoption leave |
| Diocesan Aged Care, Cairns | 4 weeks paid maternity leave |
| Francis of Assisi | 6 weeks (3 weeks up front and 3 weeks after returning to employment for 6 months) paid maternity/adoption leave |
| Good Shepherd Lodge Mackay | 6 weeks (3 weeks up front and 3 weeks after returning to employment for 6 months) paid maternity/adoption leave |
| Good Shepherd Nursing Home, Townsville | 6 weeks paid maternity leave and 1 week paid paternity leave |
| Haematology & Oncology Clinics of Australasia | 12 weeks paid maternity/paternity leave for primary care giver, after 2 years service. Non-primary male care giver entitled 1 week paid leave after birth |
| Healthscope (Allamanda, Allamanda Surgi Centre & Pacific Private, Pine Rivers, Peninsula and Palm Beach Currumbin) | 6 weeks paid maternity leave |
| Holy Spirit Hospital, Northside (Brisbane) | 6-weeks (less than 2 years service) or 12 weeks (more than 2 years service) paid parental leave for the primary care giver |

| | |
|---|---|
| Lourdes Home for the Aged, Toowoomba | 6 weeks (2 weeks up front and a further 4 weeks after returning to employment for 9 months) for maternity/adoption leave |
| Lutheran Community Care Aged Care Services | 6 weeks (3 weeks up front and a further 3 weeks after returning to employment for 9 months) for maternity/adoption leave |
| Masonic Care Queensland | 6 weeks paid maternity/adoption leave |
| Mercy Health and Aged Care Central Queensland | 6 weeks paid maternity/adoption leave |
| Mount Olivet Hospital Brisbane | 6 weeks (less than 2 years service) or 12 weeks (more than 2 years service) paid maternity leave |
| Ozcare | 6 weeks paid maternity/adoption leave for more than 2 years service |
| Prescare | 6 weeks paid maternity/adoption leave. Leave will not be offered by employer if government introduces an equal or superior scheme that costs employer money. |
| Ramsay Private Hospitals (Cairns Private, Greenslopes and New Farm Clinic) | 6 weeks (3 weeks in advance and 3 weeks on return to work after 3 months service) paid parental leave. If both parents employees of hospital then combined leave can only be 6 weeks. |
| Ramsay Private Hospitals (other than above) | 8 weeks (6 weeks up front plus 2 weeks after returning 1 month) paid parental leave. If both parents are employees then 8 weeks is total leave available to that family. |
| Spiritus Domiciliary | 9 weeks paid maternity/adoption leave |
| St Vincent's Hospital, Toowoomba | 6 weeks for the primary care giver |
| Sunnybank Private Hospital | 6 weeks (after 12 months) or 8 weeks (after 24 months) paid maternity/paternity/adoption leave per family |
| Sylvan Woods Nursing Home, Brisbane | 4 weeks (2 weeks up front and a further 2 weeks after returning to employment for 9 months) |
| Toowong Private Hospital | 6 weeks if employed for a minimum of 15 months |
| Tully Nursing Home | 6 weeks paid maternity leave |
| Uniting HealthCare (St Andrew's War Memorial Hospital, St Stephen's Private Hospital Maryborough and Hervey Bay, Sunshine Coast Private Hospital, The Wesley Hospital Auchenflower) | 7 weeks (5 weeks upfront and 2 weeks on return to work paid in weekly instalments over 2 pay periods) paid maternity leave |

It should be noted that nurses employed under the *Nurses' Domiciliary Services Award – State 2003* are covered by one of the few awards the QNU is aware of that has the provision of paid maternity leave.

We estimate that approximately 70% of nurses in Queensland have an entitlement to paid maternity leave under the relevant industrial agreement. (Nurses in the aged care sector are most disadvantaged in this regard given that relatively few employers in this sector provide this benefit). However, given that the average age of nurses is now over 45 years, the current take up rate would not be as significant as this “coverage” of entitlement suggests.

The QNU has been relatively successful in securing some entitlement to paid parental leave for our members (in various forms) because we have pursued this and other family friendly initiatives vigorously. The QNU has sought the inclusion of paid parental leave for its members in all EB negotiations in the public and private/not for profit sectors. Our current

standard claim from employers is for 14 weeks paid leave. As you can see by the above list, all employers (except for Queensland Health's maternity leave from 1 July 2008) have failed to agree to our current claim. A significant number of private sector employers, especially in the aged care sector, have failed to agree provide any form of paid leave, arguing inability to pay. The union is continuing to pursue this issue; however the inequity that exists highlights the need for a universal statutory entitlement to paid parental leave, as well as the failures of the Federal Government in its funding of aged care.

It is essential however that paid parental leave be seen as merely one strategy (albeit a very important one) that the union is pursuing on behalf of members in order to assist them to better balance their work and family responsibilities. The implementation of family friendly initiatives plays a very important role to play in assisting the recruitment and retention of nurses. The Senate Community Affairs References committee acknowledged the importance of paid parental leave and other family friendly strategies in their report on their inquiry into nursing, *The Patient Profession: Time for Action*. Recommendation No. 61 of this report states:

Recommendation 61: That the following 'family friendly' practices be advocated by all levels of government as best practice for all providers of health care services and nurse employers:

- *That flexible rostering be introduced or where appropriate developed further, together with the encouragement of greater use of part-time and job-share options.*
- *That paid maternity and paternity leave be available to all nurses.*
- *That adequate, affordable, quality childcare be provided over extended hours at the workplace, or through other forms of direct childcare assistance such as the procurement of places at nearby childcare centres.*
- *That adequate facilities to meet breastfeeding requirements be provided in the workplace.*
- *That work practices be established to encourage experienced older nurses to remain in the profession.*

The QNU has undertaken considerable work in the Work and Family area and would be happy to provide additional information to this inquiry should you require this.

Proposed paid parental leave scheme for Australian employees: QNU's Recommendations

The Queensland Nurses' Union has developed a set of key recommendations that it believes should guide stakeholders in how a national paid parental leave scheme should be established and operate. These key recommendations are not an exhaustive list of how such a scheme should be established or operate.

These are the key recommendations

Key Recommendations:

- (1) A National Parental Leave Scheme for the provision of paid time off work for an employee following the birth or adoption of a child should be created. Such a scheme should be established by legislation of the federal parliament. This should be seen as national income protection insurance for the purposes of maintaining the earning capacity of prospective parents.
- (2) The period of paid leave should be a minimum of 26 weeks. Subject to the viability of the scheme, there should be a phased increase over time in the amount of paid leave up to 52 weeks.
- (3) The national parental leave scheme should be funded in part by the creation of a levy on all employers paid in addition to the Superannuation Guarantee System (SG).
- (4) The entitlement to paid leave would be set at the employee's ordinary time earnings (as defined in the SG) at the time of 36 to 40 weeks prior to the birth. It would, in addition, include 9% Superannuation.
- (5) Access to the National Parental Leave Scheme would be exchangeable between either parent of a child, but limited to one parent only, at any one time.
- (6) A parent wishing to return to work part time prior to the 26 or 52 weeks would be able to pro rata the paid parental leave payment to extend the total time of payment to the equivalent weeks FTE (ie. Working 0.5 FTE would double the length of time at half payment)

Recommendation 1: A National Parental Leave Scheme for the provision of paid time off work for an employee following the birth or adoption of a child should be created. Such a scheme should be established by legislation of the federal parliament. This should be seen as national income protection insurance for the purposes of maintaining the earning capacity of prospective parents.

Paid parental leave should be available to Australian employees for the following reasons:

- To help mitigate against employment related and economic disadvantage experienced by women as a result of their intrinsic child bearing role
- To enhance labour market attachment of women
- To protect the significant investment in education and training of women (the cost of wastage of women from the labour force has not yet been adequately quantified in our view)
- To support the health and welfare of mothers and babies
- To continue to arrest declines in fertility rates in Australia
- To assist the retention of skilled women workers
- To support economic security of women throughout their lives
- To assist parents to better balance their work and family responsibilities

At its earliest opportunity the Commonwealth Parliament should enact laws so that all Australian mothers, fathers and adoptive parents can gain access to paid parental leave. Due to the fluid nature of employment in 21st century Australia, paid parental leave cannot be left to state governments as administratively and economically it makes sense to tie any system in with the current federal taxation and welfare system.

The scheme should be available to all employees, whether they are full-time, part-time or casual. In nursing there is a large number of part-time and casual staff and these employees should have the same access to parental leave as full-time employees.

In an economy as heavily reliant on skills as Australia's is, it is vital to maintain the ability of parents to be able to continue their participation in the Australian workforce. Paid parental leave should be seen as a national insurance scheme, similar to Medicare in its universality.

Given the ageing of the nursing workforce, a critical demographic group that needs to be retained is that of the 25-40 year old nurse. These are those employees who are most likely to be absent from the nursing workforce for significant periods of time due to child rearing responsibilities. A national paid parental leave scheme coupled with initiatives to encourage return to work following parental leave would significantly enhance workforce attachment for this group of nurses.

Recommendation 2: The period of paid leave should be a minimum of 26 weeks. Subject to the viability of the scheme, there should be a phased increase over time in the amount of paid leave up to 52 weeks.

At present Australia is one of only two OECD countries that does not provide for some form of national paid parental leave, with the other country being the United States of America. The QNU will not repeat the statistics that have been much reported by other submissions other than to say that a minimum of 26 weeks for paid leave is reasonable, considering what is paid in other countries.

The QNU notes that Unions NSW supports the notion of six months leave for mothers who have given birth and by parents who are assuming the primary care giver role. 26 weeks leave would allow mothers, if possible, to breastfeed their child. The World Health Organization states that for newborn children “(e)xclusive breastfeeding is recommended up to 6 months of age.”²

The QNU recommendation also exceeds 18 weeks contained in International Labour Organisation Recommendation 191, Maternity Protection Recommendation, 2000.

The QNU also recommends as part of the payment process that if a second birth occurs before the return to work of the parent the payment cycle commences again at the birth or adoption of the second child.

Recommendation 3: The National Parental Leave Scheme should be funded in part by the creation of a levy on all employers paid in addition to the Superannuation Guarantee System (SG).

The QNU believes that the most equitable way of funding a national scheme for parental leave is through a model linked to what is paid according to the existing superannuation guarantee (SG) arrangement. Presently all employers must contribute a minimum of 9% of their employees ordinary time earnings (OTE) to a complying superannuation fund. The SG amount is a minimum legislative requirement and it is possible for amounts in excess of the 9% to be determined by an industrial instrument such as a Union Collective Agreement.

The application of the levy on an individual employer should be largely consistent with the application of the SG to ensure no additional administrative burden for calculating the amount of contribution from an employer. The only exception is that, as the QNU has argued for some years now, the \$450 earnings threshold for the SG entitlement should not apply to either the National Parental Leave Scheme or the SG. This is because the current earnings threshold significantly disadvantages those part-time and casual workers who do not earn \$450 per month per engagement despite the fact that it is not uncommon for the workers to work multiple jobs that would take their total earnings over the \$450 threshold.

² World Health Organization – Breastfeeding <<http://www.who.int/topics/breastfeeding/en/>> (accessed 26 May 2008)

For example, if the amount was determined to be 1% of OTE of all employees then this amount would be one-ninth of what the employer forwards to superannuation funds, assuming it paid the statutory minimum. This amount would be forwarded to a fund established by the Federal Government.

The quantum of the levy should be determined having regard to setting a reasonable balance between the employer contribution and the government contribution towards the creation of a viable National Parental Leave Scheme.

Recommendation 4: The entitlement to paid leave would be set at the employee's ordinary time earnings (as defined in the SG) at the time of 36 to 40 weeks prior to the birth. It should, in addition, include 9% Superannuation.

The QNU believes that defining the entitlement to paid leave as an employee's ordinary time earnings, according to superannuation law, will assist employers and employees in understanding employee entitlements under the scheme and streamline administration.

The entitlement would be based on hours worked at an earlier time between 36 to 40 weeks prior to the birth. This would ensure that those women who reduce their working hours before the birth of their child are not unfairly disadvantaged. Some women decrease their Full Time Equivalent (FTE) hours as they advance in the pregnancy thus reducing their ordinary time earnings in the weeks immediately prior to the birth.

Payment of the leave would also have 9% superannuation contributed to a complying superannuation fund. This continuation of superannuation payments is an important aspect of any paid parental leave scheme introduced in Australia. According to ABS figures females have on average less than half the amount of money than males in their superannuation³ The ABS attributes this lower amount of superannuation to the higher prevalence of part-time work amongst women and that women were "more likely to experience breaks in employment to care for children"⁴ Paying superannuation whilst on paid leave would go some way to redressing this situation.

Recommendation 5: Access to the National Parental Leave Scheme should be exchangeable between either parent of a child, but limited to one parent only, at any one time.

Allowing parental leave to be used interchangeably between both parents, where available, will assist in both allowing mothers to return to work earlier, should they desire it, and allow fathers to play a more active role in their child's development.

The QNU has recognised the role of all forms of parental leave where possible. Some collective agreements negotiated by the union include clauses that provide for the same

³ Australian Bureau of Statistics, *6360.0 Superannuation: Coverage and Financial Characteristics, Australia* (Canberra: ABS, 2000) 28

⁴ *ibid*

amount of leave irrespective of whether it is paternity, maternity or adoption leave. Where spouses are working at the same facility then only one spouse is allowed to take the leave at any particular time.

For example in the *Cairns Private Hospital Nursing Staff Certified Agreement (no.6) 2005-2008*, an agreement certified under the *Industrial Relations Act (Qld) 1999*, both parents are entitled to paid parental leave after the birth of their child. However only one parent may access the leave at any one time and the combined leave taken can only be 6 or 8 weeks, depending on length of service.

Recommendation 6: A parent wishing to return to work part time prior to the 26 or 52 weeks would be able to pro rata the paid parental leave payment to extend the total time of payment to the equivalent weeks FTE (ie. Working 0.5 FTE would double the length of time at half payment)

Currently many mothers in particular, as well as fathers, who return to work after the birth or adoption of a child do so on a part-time basis to facilitate a smooth transition to work. The 2005 Family Provisions Test Case provided employees with a 'right to request' part-time work until their child starts school.

The QNU's recommendation allows parents who want to return part-time to do so and not be financially penalised in the process. This greater flexibility will undoubtedly see more employees return to work sooner.

Conclusion

As demonstrated above, whilst nurses at some health facilities do receive paid maternity leave (with even fewer receiving equal amounts of paternity or adoption leave) it is clear from the figures that the length of leave is not adequate. Looking at overseas examples and what is recommended by international organisations such as the World Health Organization (WHO) it is clear that 26 weeks should be seen as a bare minimum for adequate parental leave.

The QNU's Key Recommendations is not an exhaustive list of how a paid parental leave scheme should operate in Australia; however the union does advocate that the Productivity Commission take these recommendations into account when formulating its Final Report in 2009.

To particularly address the needs of working mothers, as well as fathers and adoptive parents, the QNU strongly urges that the Productivity Commission recommends a national paid parental leave scheme be adopted by the Federal Government.