



Submission from

**New South Wales Local Government, Clerical,
Administrative, Energy, Airlines & Utilities Union**

To

Productivity Commission

Inquiry into paid maternity, paternity and parental leave

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Executive Summary

This submission contains a review of industrial instruments which provide paid maternity/parental leave provisions for members of the United Services Union. Whilst these provisions are funded by the employers, they are usually the result of union campaigns and negotiations between union and management - and later ratified by the NSW Industrial Relations Commission. In some instances organisations provide for paid maternity/paternity leave by way of policy. However provisions made available through policies can become vulnerable following organisational change – such as a change at the policy making level or changes emanating from privatisation processes.

Some USU members are covered by paid maternity or parental leave provisions which were negotiated through federal industrial instruments. Our national body, the Australian Services Union, is making a submission to the Productivity Commission, and this USU submission does not intend providing detail of these federal arrangements. Nevertheless this submission does refer to the situation of private sector clerical and administrative workers covered by the USU in NSW.

A majority of USU members are employed in NSW local government but the USU is also a major union in the 'energy industry' in NSW. Paid maternity/paternity leave provisions in both these industries tend to be more generous and more prevalent than those where members have less industrial strength – particularly those employed in private sector clerical and administrative occupations in small size firms.

From the USU experience, it is clear that whilst progressive local government employers were prepared to provide paid maternity leave by way of policy, very few employees would have received access to paid maternity leave if it were not available through the common rule award.

A universal national system of paid parental leave, with fourteen (14) weeks paid maternity leave and two (2) weeks paid paternity leave, would be an advantage to many workers who currently have no access to paid maternity leave. However, the USU notes with interest that momentum is building among our members for the federal government to establish a system of 6 months paid maternity leave with full wage replacement. These issues will be further debated at the 2008 USU Conference.

Introduction

Background

The difficulties faced by workers trying to balance work and family life are factors which are fuelling demands for more flexible arrangements in the workplace and the call for a range of leave provisions, including paid maternity leave. Figures from the Australian Bureau of Statistics (ABS) have demonstrated the increased participation rate of women of childbearing age in the workforce (from 59% in November 1980 to 71% in November 2005).¹ In addition, the skills shortages are becoming increasingly evident in a range of industries highlighting the need for employers to adopt strategies to attract and retain staff.

In this context, it has been possible for a major employer association (the Australian Industry Group), the peak national union organisation (the ACTU) and the federal Sex Discrimination Commissioner to come to agreement about the need for a national, government-funded scheme of paid maternity leave.²

The United Services Union congratulates the Rudd Federal Government and the Productivity Commission for the current inquiry into paid maternity, paternity and parental leave. The Union is hopeful that recommendations from the inquiry and follow-up policies and action by the government will assist parents to balance work and family life.

About the United Services Union

The United Services Union was formed on 21 May 2003 following the merger of two branches of the Australian Services Union – the Municipal Employees Union and the Clerical and Administrative Branch of the ASU.

The United Services Union (USU) has approximately 32,000 members and represents local government, energy, airline and clerical and administrative employees throughout NSW. The largest proportion of USU members are employed in the local government industry. The Union has branches and organisers right across New South Wales.

The USU:

- Negotiates Awards
- Negotiates Collective Agreements
- Protects rates of pay
- Protects conditions of employment
- Protects against unfair dismissal

¹ Australian Bureau of Statistics, *Australian Social Trends 2007.- Article: Maternity leave arrangements*, ABS Catalogue No. 4102.0, Canberra, Page 1.

² Broderick, E, Burrow, S, Ridout, H, *Maternity Scheme is Overdue*, The Age Online, viewed April 15 2008, <<http://www.theage.com.au/news/opinion/maternity-scheme-is-overdue/2008/04/07/1207420296235.html>>

- Provides conciliation and arbitration services
- Provides industrial advice and representation
- Acts to protect the health and safety of members at work

The Union works on various campaigns aimed at improving the quality of life of members, their families and their communities. Issues taken up by the Union have included: long service leave, maternity & paternity leave, sick leave, working hours and conditions that many employees enjoy but often do not realise come from the collective strength of unionism.

The Union is a registered organisation of employees under the NSW Industrial Relations Act. Both the USU and the national body – the Australian Services Union intend making a submission to the current enquiry.

Existing Arrangements

The ABS report on maternity leave arrangements³ noted the following:

There are disparities in the use of paid maternity leave, particularly across sector, industry and occupation. In 2005, just over three-quarters (76%) of women who had worked as employees in the public sector in their last main job while pregnant used paid maternity leave, compared with just over one-quarter (27%) of women employees in the private sector.

In the pages which follow, it will become clear that the public sector/ private sector disparities are evident when comparing arrangements in local government and state owned corporations with those of workers employed in the private sector as clerical and administrative workers.

Energy and Utilities

The United Services Union has members in energy generation, transmission and distribution/retail. A large proportion of members are female workers employed in call centres and administration roles across the state. Many of these workers have access to 14 weeks paid maternity leave made available through enterprise awards and, in some instances, organizational policy arrangements.

The following summarises parental leave provisions which appearing in awards and agreements that cover USU members in the energy industry.

³ Australian Bureau of Statistics, *Australian Social Trends 2007 Summary* -, Maternity Leave Arrangements ABS Catalogue No. 4102.0, Canberra, Page 4
<http://www.abs.gov.au/AUSTATS/abs@.nsf/Latestproducts/FiCO8F3A539FED51C...>

- **Country Energy Enterprise Award 2007 (Clause 29 Parental Leave).**

The parental leave provision is in connection with the birth or adoption of a child. Paid maternity leave and adoption leave provides for 14 weeks full pay or, in the alternative, 28 weeks at half pay. Paid paternity leave provides full pay for 1 week or in the alternative, 2 weeks at half pay.

- **Energy Australia Agreement 2006 (Clause 32 Parental Leave)**

This agreement provides up to 14 weeks of paid leave (or 28 weeks at half pay) for employees who are eligible for maternity leave without pay under the Industrial Relations Act. In addition, Sub-clause 32.4.1 of the agreement also provides to employees not eligible to maternity leave, 1 week's paid parental leave on successful application, in accordance with Energy Australia's parental leave policy.

- **Integral Energy – Conditions of Employment Agreement 2007 (Clause 9.8 Parental Leave)**

Paid maternity leave is provided for 14 weeks at full pay or 28 weeks at half pay. It also grants one week full paternity leave. Paid paternity is provided for 1 week at the time of the birth of their child or other termination of pregnancy.

- **Transgrid Employees Award 2006 (Clause 35 Parental Leave)**

Employees eligible for maternity or adoption leave under the Industrial Relations Act 1996 are entitled to receive up to fourteen (14) weeks paid leave (or twenty-eight (28) weeks at half pay) at their ordinary rate of remuneration. In addition, up to one (1) week of paid leave (or two (2) weeks at half pay) is available for paternity leave.

The following summarises paid leave provisions provided by way of policy arrangements:

- Paid maternity leave is made available by way of policies, for members employed by Macquarie Generation, Eraring Energy and Delta Energy.

The policies provide for 14 weeks paid leave at full pay.

However, as has been noted above, provisions made available through policies can become vulnerable following organisational change. In the Energy industry, such policies could be threatened by the type of privatisation or leasing strategies which have been debated in the NSW political arena.

Private Sector Clerical and Administrative

Despite Union efforts to have paid maternity leave inserted into the USU's main common rule private sector award – the Clerical and Administrative (State) Award- in previous years, these efforts were not met with success. With the advent of the Howard Government's Workchoices regime many employers were defined as "constitutional corporations" and cease to operate within the NSW industrial relations system.

Generally speaking, paid maternity leave provisions covering clerical workers in the private sector are less generous than those in the public sector. Indeed, in most small establishments paid maternity leave is not provided at all. However some establishments do provide such leave but are, more likely than not, relatively larger private sector employers.

Examples of existing arrangements are as follows:

- **Qantas:** Ten weeks paid maternity leave provisions (on full pay) are included in its Enterprise Bargaining Agreement. However, twelve (12) weeks paid leave are made available by way of policy.
- **Newcastle Permanent Building Society:** Six weeks paid parental leave (after 12 months continuous service) capped at either a full rate or at 12 weeks half pay. Employees must return to work for 12 months on a minimum of two days a week to retain the benefit.
- **Greater Building Society:** Six weeks paid parental leave (after 18 months continuous service) capped at either full pay or at 12 weeks half pay. Employees must return to work for six months at either a part time or full time position.
- **NIB Health Funds:** six weeks paid parental leave (must have completed probationary period of six months). Employees must return to work for 12 months to retain benefit. An extra two weeks payments on anniversary of return from leave will be awarded plus an extra two weeks payment after second anniversary of return from leave.

Local Government

The Local government (State) Award is the main industrial instrument for most local government employees in NSW. However, there are some councils in New South Wales that operate under their own industrial instruments – for example, Sydney City Council and Newcastle City Council have their own Awards. In addition, Wollongong City Council operates under an enterprise agreement. In addition to these instruments, councils may provide additional provisions by way of policies or agreements.

Local Government (State) Award

The Local Government (State) Award is a common rule award providing a safety net of terms and conditions of employment for most local government employees. The introduction of paid maternity leave into the Local Government (State) Award 2001 represented a significant step in addressing employment equity issues in local government.

The proportion of women employed in local government has increased significantly in the last two decades and research indicated that these women play both an important economic and caring role in their families.⁴

Maternity leave was a burning issue at the 1999 Women's Conference, leading to an extensive campaign to introduce paid maternity leave into local government through cooperative negotiations with councils. Some councils voluntarily introduced paid maternity leave provisions by way of policies. However success was limited and the Union commenced proceedings to include paid maternity leave provisions in the Local Government (State) Award. At the time of the Award hearing, there were only nine state award councils across NSW that had paid Maternity/Parental Leave in council policies. These included the following:

- Ashfield – paid parental leave capped at 6 weeks and paternity leave 1 week.
- Bankstown - 8 weeks by way of maternity, paternity and adoption leave.
- Burwood - 12 weeks paid maternity leave.
- Canada Bay – up to 9 weeks maternity leave.
- Canterbury - up to 9 weeks maternity leave.
- Leichhardt - 12 weeks maternity leave.
- Manly – up to 9 weeks.
- Newcastle - 9 weeks parental leave.
- Penrith - 9 weeks maternity leave.

It was clear from the Union's experience that whilst progressive employers were prepared to provide paid maternity leave by way of policy, the majority of employees across the state only gained access to the entitlement when it was made available through the common rule award.

The historic victory, resulting in the inclusion of nine (9) weeks paid maternity leave on full pay (or 18 weeks at half pay) into the Local Government (State) Award, delivered real benefits to thousands of workers throughout NSW. It had followed months of negotiations between the Union and the Local Government & Shires Association, which led to a consent agreement which was ratified by the NSW Industrial Relations Commission on 1 November 2001.

⁴ L. Fraser, *Paid Maternity Leave in NSW Local Government: Employment Equity Aspects and Anticipated Take-up Rate*, Federated Municipal & Shire Council Employees Union of Australia, NSW Division, Sydney, 2001.

Policies

Since the inclusion of the paid maternity leave provisions into the common rule award, some councils have introduced higher provisions over and above that of the State Award. These include the following:

- **Leichhardt:** In 2007 former mayor of Leichhardt, Alice Murphy, introduced a paid maternity leave policy capped at 14 weeks.
- **Hawkesbury:** Paid maternity leave policy capped at up to twelve (12) weeks leave based on years of service.
- **Baulkham Hills:** Paid maternity leave is capped at nine (9) weeks under the State Award; however, under an Agreement a Return to Work Bonus has been awarded to employees returning from approved maternity leave (maximum of twelve months). This is capped at a one off allowance of \$1000.00 following twelve (12) months full time employment, and employees returning early on a part-time basis will be entitled to an allowance on a pro-rata basis.

Local Government Enterprise Awards/Agreements

In New South Wales, two of the 152 local councils operate under their own enterprise awards. They both provide paid maternity leave provisions:

- **Sydney City Council:** provides paid maternity leave at 14 weeks full pay and 28 weeks at half pay. Paid maternity leave is awarded to those who have completed 12 months continuous service.
- **Newcastle City Council:** provides parental leave at 9 weeks on full pay provided only to permanent staff.

In addition, Wollongong City Council operates under an enterprise agreement.

- **Wollongong City Council:** Clause 51.13 of the Wollongong City Council Enterprise Agreement states that permanent employees will be entitled to:
 - i. Maternity Leave - 60 days on full pay or 120 days at half pay (for the child bearer). Public holiday/s which falls within the paid period of maternity leave will be added to the end of the paid maternity leave.
 - ii. Paternity Leave - nine (9) calendar weeks of full pay for the primary carer (does not include the child bearer). There is no provision for extending the period of paid paternity leave for public holidays that fall within the nine calendar weeks.

Clause 51.15 furthers that:

Where the parents are both employees of Wollongong City Council, up to 12 calendar weeks full paid leave or 24 calendar weeks at half pay (child bearer

only) can be shared. The shared leave can be taken in any arrangement requested providing the primary carer (not the child bearer) can only take full paid leave up to a maximum quantum of 9 calendar weeks.

United Services Union Position

The International Labour Organisation (ILO) recommends a minimum of 14 weeks paid maternity leave. This recommendation was urged after the ILO adopted a new Maternity Protections Convention in June 2000⁵. The union is of the view that a national system of paid maternity leave of 14 weeks paid leave would improve the situation of many working women, particularly those who currently have no access to paid maternity leave.

At the United Services Union 2007 Conference, a motion was put to the members which included a call on the Federal Government to provide the following:

- A national system of government funded fourteen (14) weeks paid maternity leave and two (2) weeks paid paternity leave.
- Better access to more affordable high quality child care.
- Rights for parents to request secure part time work or flexible working hours until their children are at school.”

This motion was carried, indicating that members are keenly aware of the need for improved paid maternity, paternity and parental leave provisions and wider access to such provisions.

However, as the skill shortages continue to take affect and families are under increased pressure to balance their work and family lives, momentum is gaining within the USU membership to call upon the Rudd Federal Government to introduce a system of six months paid leave – which is in line with World Health Organisation (WHO) recommendations for optimal growth of the infant, recovery of the mother and the exclusive need for breastfeeding.

Campaign

To this end, the USU, is participating in a Unions NSW campaign for a six months paid maternity leave scheme. Indeed, a regional manifestation of the campaign was launched at Kings Langley Childcare Centre with the support of Julie Griffiths from United Services Union (USU), Adam Kerslake from Unions NSW, Blacktown Mayor Leo Kelly and Blacktown MP Paul Gibson.

The campaign is asking for a legislated, government funded system of six months universal paid maternity leave, available to all mothers irrespective of whether they are casual, full time, contractors or stay at home mums. It is also argued that the

⁵ Human Rights and Equal Opportunity Commission, *Valuing Parenting Interim Paper*, Sydney 2002, p29.,

leave should be able to be accessed by parents who are assuming the primary carer role.

Campaigners argued that the system needs to match the changes demanded of the contemporary workforce whom experts say may have five career changes in their life time. This means that full wage replacement is needed through a system of collectively pooled contributions by employers, similar to the long service leave model that operates in the construction industry.

Conclusion

This submission has indicated that industrial instruments in local government and energy as well as a small number of private enterprises contain maternity/parental leave provisions. However the United Services Union envisages undertaking future negotiations with employers to extend existing employer provided provisions of paid maternity/parental leave provisions to 14 weeks at full pay where such arrangements do not already exist.

Previous USU Conference resolutions have called upon the federal government to introduce a national system of government funded fourteen (14) weeks paid maternity leave and two (2) weeks paid paternity leave.

However, the United Services Union notes, with interest, the debate regarding a federally funded scheme for 6 months paid maternity leave. We consider that there are positive aspects to this approach and are therefore participating in the Unions NSW campaign aimed at achieving this goal. The matter will be debated at the Union's conference later this year. Indeed, at a USU Women's Committee meeting of 28 May 2008, a resolution was passed whereby a motion would be put to the Union Conference "seeking the support of Conference to strongly endorse the Unions NSW campaign for a minimum 6 months paid maternity/parental leave..."

Regardless of any new system that may be established, the USU is of the view that mechanisms implemented should not disadvantage employees in receipt of paid maternity/parental or paternity provisions made available through Awards, Agreements or policies.

References

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