



Department of Consumer
and Employment Protection
Government of Western Australia

SUBMISSION BY

THE WESTERN AUSTRALIAN STATE GOVERNMENT

TO THE

**PRODUCTIVITY COMMISSION INQUIRY INTO PAID
MATERNITY, PATERNITY AND PARENTAL LEAVE**

Introduction

The Western Australian Government believes that there is an economic and a social imperative for the introduction of a universal federally-funded scheme of paid parental leave for Australian workers. Parental leave covers maternity leave, paternity leave and adoption leave. The introduction of paid parental leave will provide either parent with the ability to access or share this entitlement.

Paid parental leave is a key strategy in encouraging workforce attachment and workforce participation of parents with young children. It will provide financial support for working parents around the time of the birth or adoption of a child, and can assist in long term gender pay equity. It should be considered a critical element in helping Australian families achieve better work and family balance.

Paid parental leave is also important for Australian business, as increasing workforce participation will widen the pool of available employees at a time of acute labour shortages. It is important for Australia's international reputation, and in terms of establishing Australia as a destination of choice for skilled migration.

As an employer, the Western Australian Government recognises the benefit of providing paid parental leave to attract and retain a committed and motivated workforce. As of 1 July 2008, paid parental leave in the Western Australian public sector will increase to 14 weeks.

In 2002 the Western Australian Government made a submission supporting paid parental leave in response to the Human Rights and Equal Opportunity Commission's interim paper *Valuing Parenthood: Options for paid maternity leave*.¹ At that time the WA Government provided in principle support for a national 14-week maternity leave scheme paid at the level of the federal minimum wage to be funded by the Federal Government.

¹ Human Rights and Equal Opportunity Commission, *Valuing Parenthood: Options for paid maternity leave*, interim paper 2002, HREOC, Sydney 2002

The Western Australian Government remains supportive of a federally funded paid parental leave scheme.

This submission outlines the views of the Western Australian Government on paid parental leave. The Government supports the introduction of a national paid parental leave scheme funded by the Federal Government, in which either parent is entitled to at least 14 weeks paid leave.

As a minimum, paid parental leave should be paid at the rate of the federal minimum wage plus 9% superannuation. The Western Australian Government strongly encourages the Productivity Commission to consider the viability of funding paid parental leave at a rate above the minimum wage, in accordance with international best practice.

This submission also includes information on current paid parental leave arrangements in the Western Australian public and private sectors, and briefly addresses a number of issues in relation to family health and wellbeing and women's personal experiences.

The submission was developed by the Labour Relations Division of the Department of Consumer and Employment Protection in consultation with the Department of the Premier and Cabinet, the Office for Women's Policy at the Department for Communities, Department of Treasury and Finance and the Small Business Development Corporation.

Contents

Section 1	Importance of paid parental leave	3
Section 2	Current situation in Western Australia	8
Section 3	Key components of a paid parental leave scheme	11
Section 4	Impact on employers	14

Section 1 Importance of paid parental leave

Improving the ability of working men and women to balance their family and work lives is a critical issue for all Australian Governments.

Paid parental leave is a fundamental strategy to support the ability of parents to return to the paid workforce after the birth or adoption of a child.

The Western Australian Government holds the view that the industrial relations system must provide a strong safety net of minimum entitlements that supports working parents and facilitates a return to the workforce.

Paid parental leave is an essential addition to the minimum safety net of employment-related entitlements; however, due to the unique nature of the entitlement, it should be funded centrally by the federal government rather than by employers.

While federal government family assistance payments currently provide financial support for new parents, these payments generally do not compensate fully for loss of income and do not encourage return to work and continuing workforce participation.

It is important to note that while increased workforce participation of parents with young children is an important social and economic goal, a significant percentage of parents, particularly women with young children, will choose not to undertake paid work. Policy makers must ensure that strategies provide support for parents who are not in employment as well as those who are in paid work.

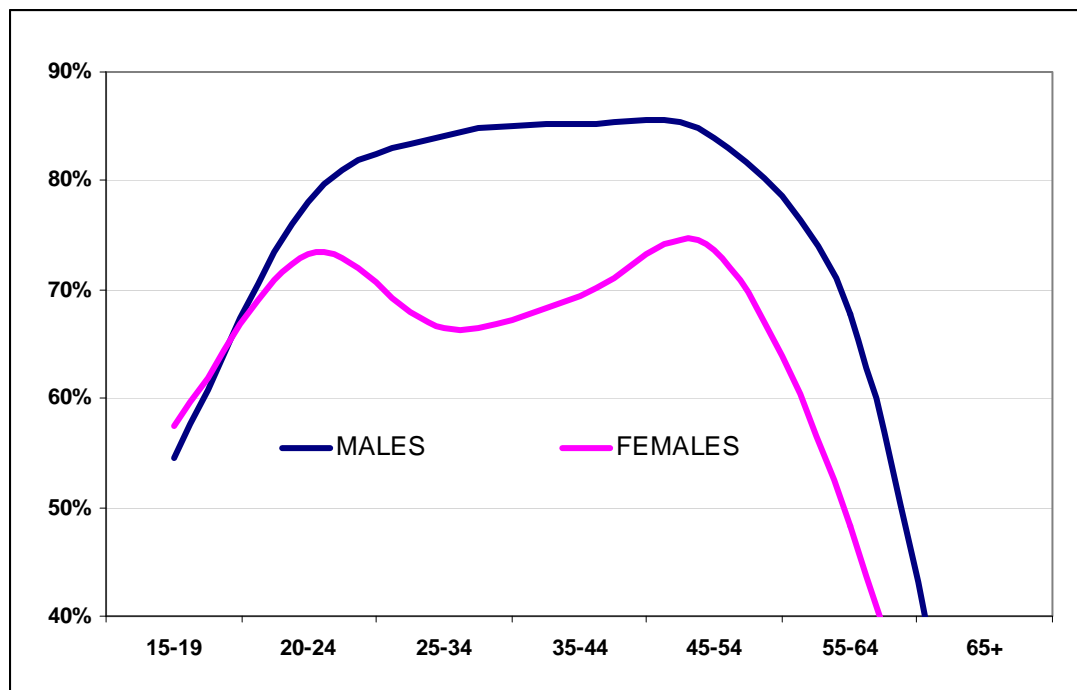
Encouraging workforce participation

The level of participation by women in the workforce is strongly influenced by the fact that many women have dependent children. The workforce participation rate in Western Australia is currently 60% for women and 76% for men².

As shown by Graph 1, the participation rate for women shows a sharp dip between ages 25 and 40 when many women leave the workforce due to family commitments. The retention of a higher proportion of these employees in the workforce after a period of maternity leave would be of significant benefit for employers and the economy.

² ABS Labour Force 6202 March 2008

Graph 1 Labour force participation by age cohort Western Australia³



The ageing population and ageing workforce in the context of a strong economy means that a shortage of labour will be a long-term issue for Australian business.

Encouraging workforce participation and workforce retention of women through the provision of paid parental leave is an essential strategy to address the skills shortage and support continued economic growth. The availability of paid parental leave sends a clear message that parental leave is accepted as a normal part of a working life and career.

Evidence suggests that it is generally recognised by employers that benefits like extended paid maternity leave can increase the rates of return to work by employees and reduce rehire and retraining costs⁴.

In the *Parental Leave in Australia Survey* conducted in 2005⁵, 60% of families (in which the mother had been employed prior to the birth and taken leave) identified that paid maternity leave would be a favourable provision, and 24% of families indicated that paid paternity leave would improve their situation. The survey indicated that 14% of employed mothers left the labour market around the time of birth, with 20% citing their reason as a lack of paid maternity leave.

Paid parental leave and the gender pay gap

The introduction of paid parental leave is also an important tool in encouraging greater gender pay equity in the Australian workforce.

³ ABS Census data 2006

⁴ Witness Statement by Barbara Pocock to the SA Industrial Relations Commission 28 February 2005

⁵ Whitehouse, G, M Baird and C. Diamond (2006) *Highlights from The Parental Leave in Australia Survey*.

Pay equity is measured in terms of the gender pay gap, which is the average weekly ordinary time earnings for men and women. Currently in Western Australia the gender pay gap is 28%. Australia-wide the gender pay gap is 15%⁶.

The gender pay gap is a long-term historical problem. A range of social, historical and labour market factors have contributed to the gender pay gap.

One factor influencing the gender pay gap is that women have breaks away from the workforce due to childrearing. These breaks result in lower earnings both in the short term and the longer term, and can also have a significant impact on retirement savings.

Paid parental leave can work to reduce the gender pay gap by encouraging ongoing workforce attachment for women and provide increased opportunity for maintenance of career and salary.

In 2004 the Western Australian Government commissioned Drs Trish Todd and Joan Eveline from the University of Western Australia to conduct a review of the gender pay gap in Western Australia. The *Report of the Review of the Gender Pay Gap in Western Australia* (the Todd/Eveline Review), tabled in Parliament in November 2004, provided 34 recommendations to Government on strategies to address the gender pay gap. A key recommendation of the Review was the establishment of a Pay Equity Unit for Western Australia.

The report made a number of recommendations on paid parental leave. These were that:

- the Western Australian Government set as a goal the introduction of paid parental leave within the public and private sectors in WA in accordance with the ILO standard of 14 weeks;
- the Government liaise closely with its federal and other State government counterparts in support of a nationwide strategy to introduce paid parental leave; and
- the Government increase paid parental leave for public sector employees to the ILO standard of 14 weeks.⁷

In February 2005, the Western Australian Government made a commitment to increase the level of paid parental leave for public sector employees from the then current level of 7 weeks to 14 weeks. The full entitlement of 14 weeks will be available to all employees from 1 July 2008.

The Government has been promoting the benefits of paid parental leave as an attraction and retention tool for Western Australian private sector employers as part of a range of work life balance and pay equity initiatives currently being undertaken.

Family health and wellbeing

The availability of paid parental leave recognises the importance of providing a real choice for parents as to whether to return to paid employment or remain at home with the child. Adequate support for families provides them with real choices that provide long term benefits to the individual and the broader community.

⁶ ABS Average Weekly Earnings 6302 February 2008

⁷ Report of the Review of the Gender Pay Gap in Western Australia 2004 p 71

Evidence and international conventions support the view that maternity leave should be long enough (3-4 months) for women to establish and maintain breastfeeding routines. A period of paid maternity leave would provide women with the support for this to occur.

The birth and rearing of children is a key transition point in the lifecycle. Providing a secure and adequate income as well as the need to be there for children are two competing pressures for many families trying to find the balance between work and family.

Paid parental leave will provide valuable assistance to families to balance these competing demands in the first year of the child's life. This is the time when a secure attachment or bond between child and parents is being developed, and according to evidence, is the best predictor of healthy development and a child's later social, emotional, and school functioning⁸.

Personal experiences

Information about women's personal experiences of the impact of paid parental leave was provided by the Office of Women's Policy in consultation with the Women's Advisory Network of Western Australia (WANWA)⁹.

WANWA members report that consideration should be given to extending the period of paid parental leave in order for women to remain at home for longer with the child. Members felt that unpaid maternity leave did not provide a choice for the mother to remain at home because of financial constraints.

Paid parental leave was seen as particularly important for parents with a child with a disability, as it would provide them with a longer period to identify the services that were best able to meet their needs before returning to work. Examples of issues raised by members about current paid parental leave schemes included:

6 weeks of a 12 week paid parental leave payment was withheld until shortly before a woman returned to work, rather than being paid on an ongoing basis whilst on leave. This had a negative financial impact on the woman and her family, as well as on the employment relationship.

Some employees who returned to work on a part time basis were required to work certain days, rather than those days being negotiated with the employee.

Members suggest that a future paid parental leave scheme should be a standardised national system that provides a maximum of 24 months leave, and, in particular, incorporates flexibility in relation to when women wish to return to the workforce.

Members support the view that paid parental leave should be available to either parent. Currently, in many cases, the only option for fathers is to take annual leave. The lack of access to parental leave not only creates less opportunity for fathers to be with their child, it reinforces stereotypical roles for women.

⁸ Appleyard, K. & Berlin, L.J., 2005

⁹ WANWA was formed in March 2007 and represents the views and interests of Western Australian women in State policy and decision-making. The network provides a model for community consultation and engagement through its diverse membership who represent a wide range of different peak organisations and women's groups.

Section 2 Current situation in Western Australia

Economic situation

Western Australia currently has a historically low level of unemployment and many employers are facing severe labour and skills shortages. In April 2008, Western Australia's unemployment rate was 3.3%, the same rate that was recorded in March 2008¹⁰.

The participation rate in Western Australia is currently 68%. The workforce participation rate in Western Australia is currently 60% for women and 76% for men. Currently, 45.9% of women in the Western Australian workforce work part time hours, compared to 13.5% of men¹¹.

Paid parental leave in the Western Australian public service

The Western Australian Government currently provides 12 weeks continuous paid parental leave to all public sector employees. This will increase to 14 weeks on 1 July 2008.

Paid parental leave is available to employees who have had 12 months service with the public service. It is available for the birth of a child to the employee or the employee's partner or adoption of a child under the age of 5. The employee who takes parental leave must be the primary care giver of the newly born or newly adopted child. Casual employees are not entitled to paid parental leave.

An employee may take the paid parental leave at half pay over twice the period. Both the paid and unpaid parental leave entitlements may be shared between partners assuming the role of primary care giver, where both partners work in the Western Australian public sector. Unpaid partner leave of up to eight weeks (upon request) is also provided.

Paid parental leave in Western Australia

The three graphs below provide a snapshot of the percentage of male and female employees that have access to paid parental leave by industry group, occupation and salary¹².

The statistics indicate that a large percentage of employees in Western Australia do not have access to paid parental leave of any kind¹³. This is particularly the case for employees located in lower paid positions and in female dominated industries. Graph 2 shows that women working in the industry group of Accommodation and food services have the lowest level of access to paid parental leave (12%).

Graph 4 shows that employees located in those income groups earning up to \$500 per week or the equivalent of the minimum wage have the lowest level of access to paid parental leave (2.9% to 33.8%). Parents in these groups are significantly less likely to have access to paid parental leave.

¹⁰ ABS Labour Force 6202 April 2008

¹¹ ABS Labour Force 6202 April 2008

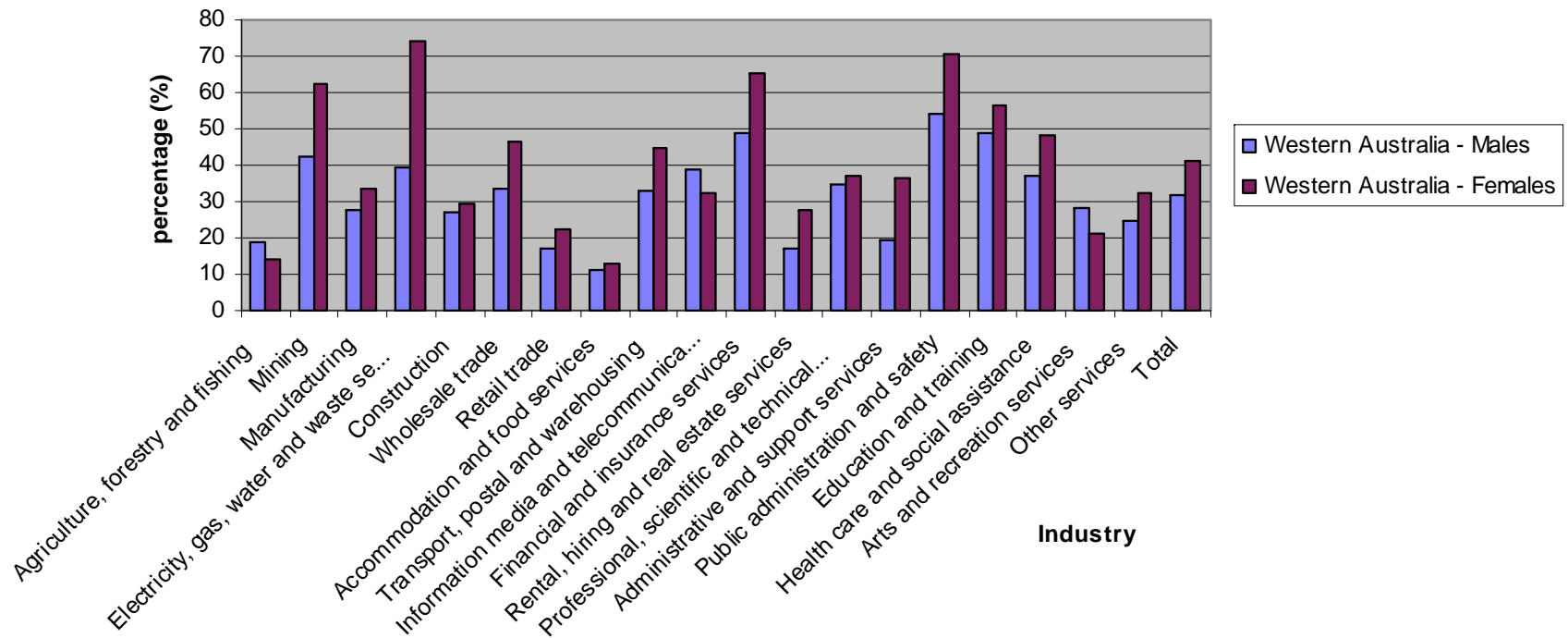
¹² ABS *Employee Earnings, Benefits and Trade Union Membership* 6310 April 2008 unpublished

¹³ *ibid*

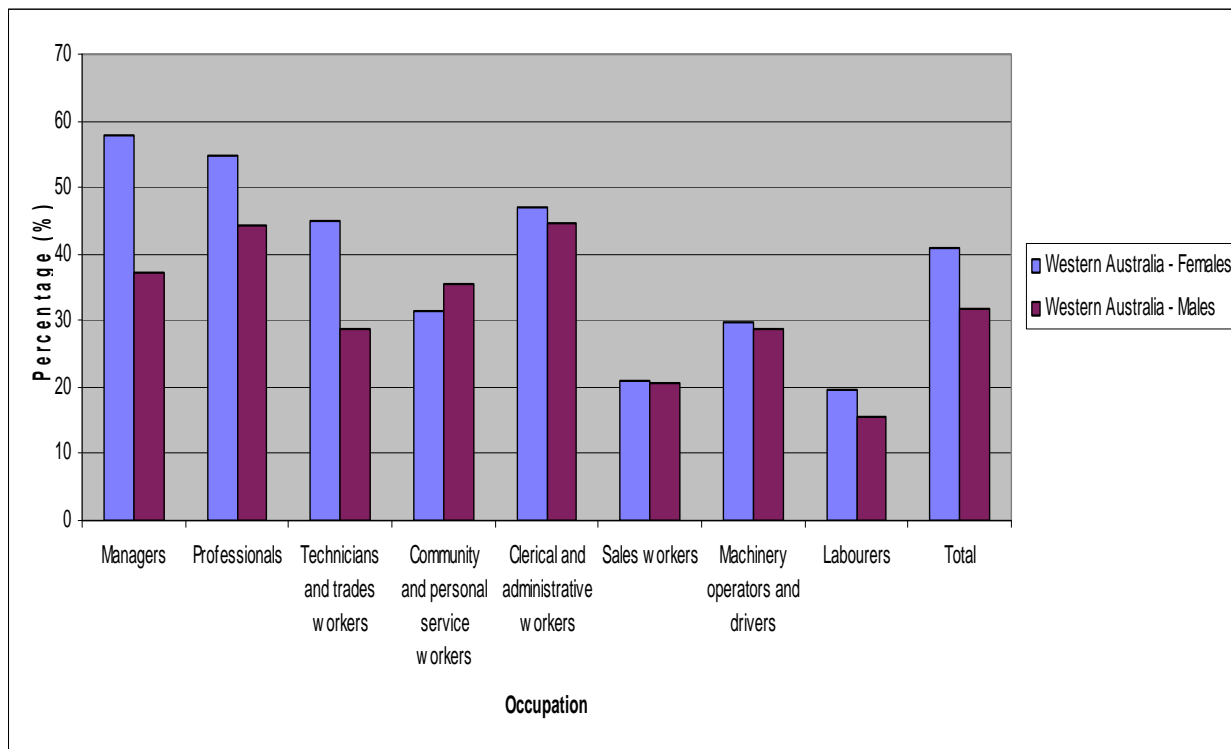
In all income groups earning over \$1000 per week, at least 47.2% of employees have access to paid parental leave. The income group earning between \$1400 and \$1600 has the highest percentage of employee access (54%) to paid parental leave. Across all income groups, a significantly larger percentage of women than men have access to paid parental leave.

Approximately 30.5% of employees in the private sector have access to paid parental leave. Although it is unclear in the data as to the extent of the paid parental leave entitlement, many of these entitlements may be lower than the ILO standard of 14 weeks. A national approach will eliminate the barriers and establish a minimum standard of paid parental leave entitlements.

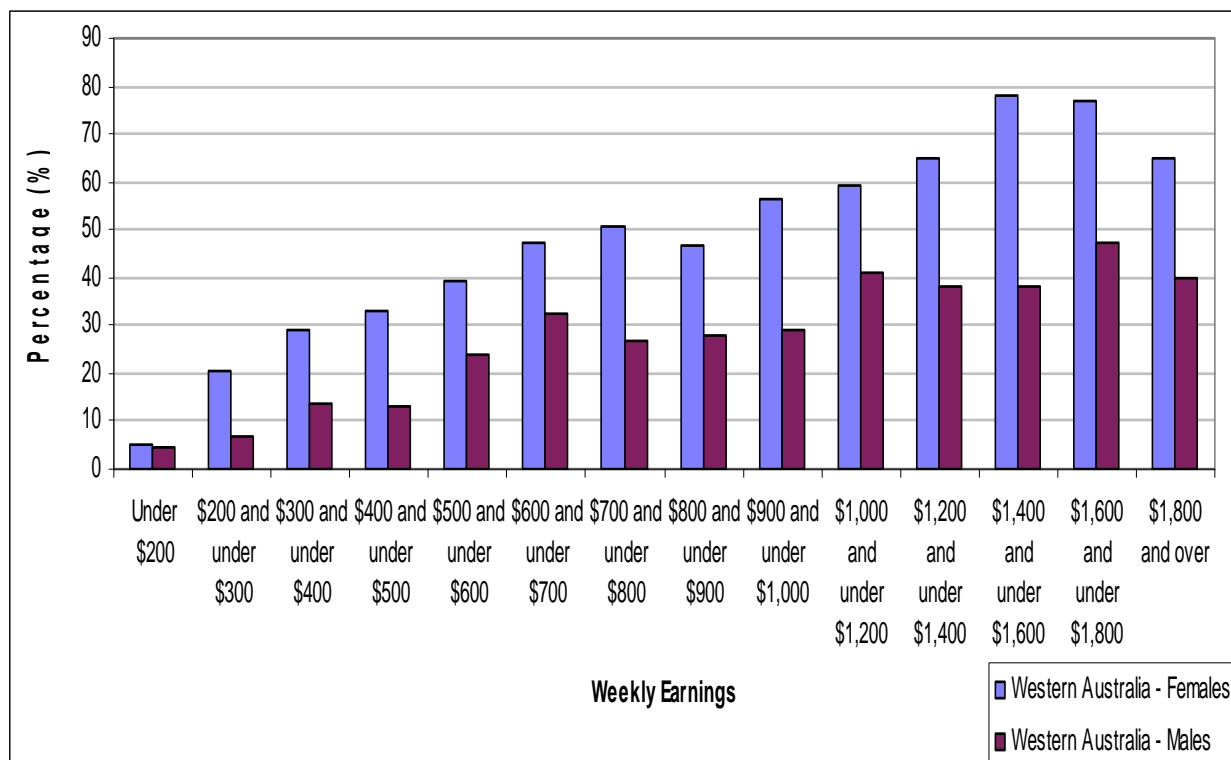
Graph 2 Employee access to paid parental leave by industry and gender



Graph 3 Access to paid parental leave by occupation and gender



Graph 4 Access to paid parental leave by weekly earnings and gender



Section 3 Key components of a paid parental leave scheme

Paid maternity or parental leave?

The Western Australian Government has introduced paid parental leave rather than paid maternity leave for its public sector employees. Either parent can access or share the paid parental leave component.

There may be reasons why a woman chooses to return to her employment soon after childbirth if her partner is able to share both the paid and unpaid parental leave entitlement.

The Western Australian Government supports a national paid parental leave scheme in which paid leave is provided to either parent who is the primary caregiver of the child.

Quantum / duration

The Western Australian Government supports a paid parental leave duration of at least 14 weeks. This is consistent with the ILO Maternity Leave Convention, and is considered as an acceptable minimum entitlement for paid leave for the birth of a child.

In offering 14 weeks paid leave, Australia will still be providing a significantly lower level of maternity protection than many other OECD nations. The Western Australian Government encourages the Productivity Commission to examine the viability of providing a longer period of paid parental leave to Australian workers.

Any period of paid parental leave should be able to be taken at half pay for a longer term.

Eligibility criteria

One of the primary economic benefits of paid parental leave is its ability to encourage and allow parents of young children to continue to participate in the workforce if they choose to do so. As such, any national paid parental leave scheme should cover only people who are in employment. This should include parents who are self-employed.

It is important to ensure that parents who are not in employment continue to have access to parenting and family assistance payments to assist with the costs of raising children.

Length of service

The Western Australian Government supports eligibility for paid parental leave that is based on the employee having completed 12 months service.

Casual employees

In Western Australia, the provisions of the *Minimum Conditions of Employment Act (1993)* include an entitlement for unpaid parental leave for casual employees if they have completed 12 months continuous service with an employer and have a reasonable expectation of ongoing employment with that employer.

The Western Australia Government supports the inclusion of casual employees in a national paid parental scheme as long as they meet similar criteria to those in the *Minimum Conditions of Employment Act*.

Adoption of a child

Adopting parents in Western Australia currently have access to unpaid parental leave. The Western Australian Government would support a national paid parental leave scheme that is extended to cover employees who adopt a child under five years of age.

Who should pay?

The Western Australian Government supports a national paid parental leave scheme funded by the Federal Government, under which employees are entitled to a standard period of paid parental leave, with employers having the option of topping up this payment to the level of the employees' regular earnings if they are able to do so.

A federally funded paid parental leave scheme would provide support for working parents at the time of the birth of a child, and encourage a return to work, without placing a significant additional financial burden on Australian employers.

The Western Australian Government does not support a requirement that employers, particularly small business employers, fund paid parental leave. In Western Australia, approximately 95% of all private sector businesses are small businesses and of those, 37% employ staff. Small Business is defined as those businesses with less than 20 employees.

However, the Government would encourage employers to share the cost of paid parental leave with the Federal Government by topping up any payment made under a national parental leave scheme to the level of the employee's average salary or earnings.

How much is paid?

It is important to ensure that any paid parental leave scheme provides a level of payment that meets the financial needs of new parents and provides adequate compensation for forgone earnings. The determination of this amount could be based on international benchmarks. For example, the ILO Maternity Protection Convention 2000 states that where cash benefits for a period of paid maternity leave are based on previous earnings, "the amount of such benefits shall not be less than two-thirds of the woman's previous earnings".

The Western Australian Government supports a paid parental leave scheme in which working parents are entitled to leave paid at least at the level of the federal minimum wage plus 9% superannuation. The Government encourages the Productivity Commission to consider whether the federal minimum wage or the ILO recommendation of two-thirds of previous earnings, whichever is the higher, is a viable option for a paid parental leave scheme.

The average weekly ordinary time earnings for females in Western Australia is currently \$967.70¹⁴. A paid parental leave rate of two thirds of the average earnings for women would equate to \$638.68 per week. The federal minimum wage is currently \$522.12 per week.

In March 2008, 46% of Western Australian women were employed on a part time basis¹⁵. Part time employees should receive paid parental leave on a pro rata basis.

How is it paid?

The Western Australian Government supports a national paid parental leave scheme that does not impose a significant additional administrative or cost burden upon employers. The Government encourages the Productivity Commission to develop a scheme in which employers continue to pay an employee's salary or wages during a period of paid parental leave. This will maximise the benefits of paid parental leave in terms of maintaining an employee's attachment to the individual workplace and the workforce as a whole.

Employers should then be able to claim reimbursement for parental leave payments made to employees from the federal Government, up to the entitlement available under the national paid parental leave scheme. Consideration should be given to how the reimbursement of paid parental leave payments to employers could be integrated into the Pay As You Go taxation system, to reduce the administrative burden on business.

Paternity or partner leave

International best practice is to provide a provision for paternity leave, for the father or partner of the employee giving birth as a component of a paid parental leave scheme. The provision of partner leave allows the non-primary care giver parent to remain at home with the child for a number of weeks immediately after the birth or adoption and facilitates parent /child bonding as well as supporting maternal health and recovery from the birth.

The Western Australian Government encourages the Productivity Commission to investigate the feasibility of including paid paternity/partner leave in a national paid parental leave scheme.

Return to work guarantee

A new national paid parental leave scheme would not of necessity require changes to legislative entitlements to unpaid parental leave that exist across all Australian jurisdictions. An employee's entitlement to return to work after a period of parental leave could continue to be regulated by the relevant state or federal workplace relations legislation.

¹⁴ ABS 6302 Average Weekly Earnings November 2007

¹⁵ ABS 6202 Labour Force Australia March 2008

Section 4 Impact on employers

One of the primary benefits of a federally funded paid parental leave scheme would be the limited burden such a scheme places on Australian employers.

All employers are currently responsible for the associated costs of managing a period of unpaid parental leave for any eligible employees. The introduction of a federally funded paid parental scheme is unlikely to increase significantly the costs or administrative burden to business.

Employers who are currently providing paid parental leave to employees will be able to continue to do so. These paid parental leave entitlements, which vary considerably across organisations, may need to be modified to complement any national paid parental leave scheme introduced.

Paid parental leave will remain an important attraction and retention tool for employers. A national paid parental leave scheme will provide a basic minimum entitlement for all employees, and will also serve to highlight those employers providing best practice standards in the area.

Best practice employers are likely to supplement any national entitlement through the provision of longer periods of parental leave, paid partner leave and the maintenance of full salary or wages throughout the period of paid parental leave by 'topping up' any payments to the employee made as part of a national scheme.

A national paid parental leave scheme based on a minimum entitlement model may also encourage enterprise based collective bargaining on the issue of paid parental leave, with the opportunity for employee entitlements above the federally-funded minimum to be negotiated.

Impact on small business

Where reimbursement for employers' expenses is sought from the federal government through the tax system, options need to be considered to minimise the potential delay of those payments. This is of particular concern when small business employers may have recruited a new employee whilst an existing employee is on parental leave, necessitating the payment of two wages for a period of time.
