



Queensland Nurses' Union Response to the
Productivity Commission Draft Inquiry Report

**Paid Parental Leave:
*Support for Parents with
Newborn Children***

Submitted 14 November, 2008

BACKGROUND

In February, 2008, the Federal Government asked the Productivity Commission (the Commission) to undertake a public inquiry into paid maternity, paternity and paternal leave. In April, 2008, the Commission issued a background paper, and later accepted written submissions and conducted hearings.

On 30 September, 2008, the Commission released a draft report, *Paid Parental Leave: Support for Parents with Newborn Children* (the Report) for public comment. The Commission is conducting a further round of public hearings commencing on 10 November and will produce a final report in February, 2009.

In the Report, the Commission set out a number of draft recommendations and sought comments on these and all aspects of its proposed model of paid parental leave. In particular, the Commission specifically sought feedback on key areas relating to the practical application of its recommendations.

In the Queensland Nurses' Union's (QNU) original submission (No. 125) we put forward a set of key recommendations for establishing and administering a national paid parental leave scheme. Here, we comment specifically on some of the areas the Commission identified in the Report and more generally on its proposed model.

ISSUES

Overview

The QNU welcomes the Productivity Commission's proposed paid parental leave scheme which gives explicit recognition to the vital role women play as workers and mothers. Your report has sensitively explored the many, and at times, highly emotive facets of paid parental leave. Yet leaving the detail of these issues aside, it is timely that governments and employers finally acknowledge that 'reform' of the labour market lies not only in the vast amounts of reregulation through the law that Australians have experienced in recent years. It also lies in giving expression to entitlements that recognise and reward women's contribution to the economy as well as the family.

This is so not only through their labour, but because of their undeniably unique position as bearers of the next generation of workers. Only women can provide this resource. Only women can be workers and produce workers. Notwithstanding the role of men in this process, they do not bear the burden that both these functions inevitably impose on most women. So if we choose to consider paid parental leave only as a short term, highly sensitive, costly 'problem' that produces winners and losers, ultimately the scorecard of reform will not favour anyone. If, however, we at last recognise that for all Australians to move 'forward with fairness', then it is surely time we rigorously implement a paid parental leave scheme.

Therefore, while we appreciate the significance of the Commission's draft proposal, we believe that there are some aspects of the model that need clarification in order to give effective implementation to the scheme and avoid unintended consequences.

Feedback on all aspects of the proposed model, covering its advantages and disadvantages, unintended consequences and implementation issues, among other things. (p2.2)

Advantages

In our original submission, the QNU recommended a national parental leave scheme of a minimum of 26 weeks with a phased increase of up to 52 weeks paid leave that an employer levy (in addition to the Superannuation Guarantee) would fund. Under the Commission's proposed tax-payer funded scheme, employees can access 18 weeks of paid parental leave provided it commences after any period of other

continuous leave available at the birth of the child and before 6 months after birth. Leave is only payable if it is taken. An additional 2 weeks would be available as paternity leave and would be reserved for the father (or other eligible partner) on a 'use it or lose it' basis. Here, the Commission has shown great insight into the needs of working Australians. However, in keeping with our stated position, we believe the scheme should provide access to 26 weeks of paid parental leave at full ordinary earnings or the federal minimum wage (whichever is higher) in addition to any other existing paid leave entitlements. We also advocate flexibility around the timing and taking of leave, and that the proposed scheme should extend the provision of 2 weeks paid paternity leave to 4 weeks to ensure partners have a longer period of time to accommodate the needs of the mother and family at this important time.

The proposed scheme has obvious advantages for employees (and their partners) who currently receive a limited amount of paid parental leave, or no paid entitlement at all. The QNU estimates that around 70% of nurses and midwives in Queensland have a paid maternity leave entitlement under the relevant industrial agreement. Nurses in the aged care sector remain disadvantaged in this area as relatively few employers have agreed to pay this benefit. Given the ageing of the nursing workforce, 25-45 year old nurses are a critical demographic group that employers need to retain. It is these employees, their families and their employers who are most likely to benefit from the scheme.

The report has thoroughly explored the proposed scheme's interaction with social welfare payments, allowing families who may be disadvantaged by the scheme to choose to receive existing family payments and the maternity allowance instead (p. 9.1). While it is not possible to predict every circumstance, it is noteworthy that the report suggests lower income earners will receive greater benefits than higher income earners and they will be more likely to increase their leave in response (p. 9.1). The scheme is therefore important in increasing the length of leave women can take around the birth or adoption of their child, and encouraging women to enter and remain in the workforce. The Federal Government should take measures to ensure that there is no delay in implementing the scheme.

Disadvantages

While the QNU appreciates the considerable progress that the parental leave proposal makes towards recognising women's contribution to the workforce and maternal and child health, there are ambiguities that arise in respect to a number of matters. Although we do not foresee disadvantages in the scheme itself, there may be future, unintended consequences resulting from a misunderstanding of the Commission's *intention of the scheme*. By this we mean, employers' compliance with the Commission's intention that the proposed scheme operates *in conjunction with and in addition to* current paid parental leave provisions. The QNU believes that the final report should clearly recommend that the proposed entitlements should operate in addition to any existing paid parental leave entitlements and should be codified as a National Employment Standard or separate statute. Such a move would ensure that the government funded scheme would not become a vehicle for employers to negotiate the reduction or removal of existing parental leave entitlements.

Your report acknowledges that some employers who currently offer paid maternity leave may seek to withdraw this entitlement in favour of the proposed government-funded scheme (p.7.12). The QNU would vigorously oppose any move by employers to initiate such action, believing firmly that employers cannot abrogate their existing responsibilities in providing paid parental leave in favour of a tax payer funded scheme. As with the introduction of any large scale initiative, the proposed scheme may inevitably involve issues around implementation. We therefore support the inclusion of dispute settling procedures under the auspices of Fair Work Australia.

The QNU believes that this scheme should work in conjunction with a range of workplace facilities such as breastfeeding rooms, lactation breaks, and access to high quality, affordable childcare services, especially the provision of services that meet the currently largely unmet child care needs of shift workers. These measures encourage women's participation in the work force and help to protect their physical and emotional needs as well as those of their children.

The availability of high quality, affordable childcare is a major determinant of workforce participation for all women with young children. The provision of extended-hours childcare is a particularly important

employment equity issue for the QNU as the majority of nurses and midwives work continuous shifts. Although the amount of adequate childcare facilities needs to increase, the existing childcare assistance schemes at least recognise the extraordinary costs families face in returning to work. Yet, while most of the current tax transfer system in Australia discourages labour force participation by new mothers, child care assistance encourages their return to work (Productivity Commission 2008, p 9.7). Thus, child care assistance might actively contribute towards women returning to work early, a situation that may work against the objectives of the scheme to delay the return to work.

The Productivity Commission may need to give further consideration to the complex interaction of childcare services, childcare assistance and the proposed paid parental leave scheme.

Other Issues

The paid parental leave scheme is particularly relevant to nurses and midwives in light of the federal government's 'Bringing Nurses Back into the Workforce' program. The Prime Minister, the Hon Kevin Rudd MP and the Minister for Health and Ageing, the Hon Nicola Roxon MP announced this program on 15 January 2008. The program commits \$39.4 million over 5 years to provide places for 7,750 extra nurses and midwives in public and private hospitals and 1,000 nurses in residential aged care homes. This will form part of a larger measure through which the Government will provide \$138.9 million over five years across the Health and Ageing and Education portfolios in support of the recruitment and training of up to a total of 8,750 nurses across public and private hospitals and aged care as well as funding up to an additional 1,170 ongoing university nursing places per year.

The aims of the Bringing Nurses Back into the Workforce program are to:

- reduce the nursing shortages in many parts of the hospital system, both in the public and private sectors and in residential aged care homes and
- attract 8,750 of the estimated 30,000 qualified nurses who are outside the Australian nursing workforce back into nursing.

The program will provide cash bonuses of up to \$6,000 to eligible nurses and midwives who return to work in either a public or private hospital or aged care home that is participating in the program (Australian Government, Department of Health and Aging, 2008).

The QNU welcomes this overdue intervention. However, even though the Queensland government has already taken some measures to alleviate the chronic nursing shortage, there remains a significant shortfall across the profession as well as specific shortages in 19 specialisations. The nursing and midwifery shortages are particularly pronounced in Queensland. Analysis by the QNU of ABS 2006 census data and population growth indicates that there is a predicted shortfall of 14,000 nurses in Queensland by 2014. An increase in the number of nurses and midwives may go some way towards alleviating the heavy workloads such serious workforce shortages produce.

The trend continues nationally. The Department of Education Employment and Workplace Relations (DEEWR) occupational reports identified skills shortages across all nursing categories including enrolled nurses with advanced skills and qualifications, nurse managers particularly in regional areas, nurse educators, registered nurses, registered midwives, and registered mental health nurses (2008). The QNU therefore suggests that initiatives such as the proposed scheme may operate as an incentive in nurses' attachment to the labour market.

The practicality, costs and merit of allowing part-time paid parental leave

In our original submission, the QNU recommended a minimum of 26 weeks paid parental leave with a phased increase over time to 52 weeks. Further, a parent wishing to return to work part-time prior to the 26 or 52 weeks would be able to extend the total time of leave by pro-rating the paid entitlement to an

equivalent number of additional weeks (e.g. working 0.5 of a full time equivalent (FTE) would double the length of time at half pay) (QNU 2008).

Under the Commission's proposed model, adult part-time workers whose weekly earnings had been less than the federal adult wage (\$543.78) would all be eligible for the full amount along with other workers. Here, the Commission has recognised the vital contribution of part-time workers. Consistent with this approach, the QNU supports *part-time payment where it extends the total duration of paid parental leave by a pro rata amount of time*.

There are a number of reasons why we advocate this option that are consistent with other statutory decisions that broaden the right to extended leave. In particular we refer to a decision of a Full Bench of the Australian Industrial Relations Commission (Print PR082005) that gave employees the right to request extended unpaid parental leave from 52 weeks to 104 weeks, and return from parental leave on a part-time basis until the child reaches school age. Although the Howard government reduced this entitlement through the National Employment Standards of its Workchoices legislation, the AIRC's decision reflected community standards based on substantial evidence. The Rudd Government has indicated that it will extend the right to request an additional 52 weeks of unpaid parental leave through the National Employment Standards.

Nursing is a feminised profession. In Queensland, only 8% of registered nurses and 7.1% of enrolled nurses are male (Australian Institute of Health and Welfare, 2008). The length of leave available to nurses in Queensland varies depending on where the employee works. The inconsistency of current leave provisions results in serious inequities between nurses/midwives and their employers. The QNU advocates a national paid parental leave system that promotes equity *between all women workers* regardless of their income.

There is a high proportion of part-time employees in nursing. 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, reversing a previous trend of gradual increases in part-time work (Australian Institute of Health and Welfare, 2008). In 2005, the average total number of hours worked by nurse in Australia were as follows (Queensland hours in brackets):

- Registered nurses 33.3 hours (33.6)
- Enrolled nurses 31.6 hours (32.7 hours)

The majority of nurses work continuous shifts to cover the 7 day a week, 24 hours a day operation of many health services. Queensland health providers employ around 62% of nurses in acute health facilities where the requirement for continuous shift work is more likely to occur. These operational characteristics can allow nurses to balance work and family responsibilities, notwithstanding the health problems that research indicates shift work may cause¹. We also note that the current decrease in part-time employment in the profession may be due to work intensification in the past decade.

With such a high proportion of part-time employees who work in shifts, it seems likely that many nurses on paid parental leave will seek to continue part time arrangements. Indeed, the continuous rostering system means that employers are already providing ongoing coverage of shifts.

Whether (and if so, how) the scheme could provide fathers with more equal access to paid parental leave, without risks of unintended consequences

In our original submission, the QNU recommended that access to a national parental leave scheme should be exchangeable between either of the child's parents, but limited to only one parent at any one time. Under this option, the mother could return to work earlier than 18 (or 26) weeks after the birth of the child, and eligibility for the balance of the paid leave component would transfer to her partner.

¹ See for example Hadmi et al's (2008) study on the health effects of shiftwork on nurses and the World Health Organisation (2002) *Report on Global Health* which links cardiovascular disease to the stress associated with shiftwork (in addition to other factors). Shiftwork tends to involve heavier work, more stress, and less control. Mechanisms of action include disturbances to the circadian rhythm, fatigue, elevated levels of serum triglycerides, and accentuation of other risk factors for heart disease.

The likely disruption burdens for employers associated with employees taking longer periods of leave

The QNU recognises that an 18 week government-funded parental leave option may in many cases require employers to replace a staff member while she/he is on leave. Extending the half-pay option will also call on employers to provide replacement staff for longer periods. The QNU also points out that the reality for employers is that they are now operating in a work environment where women make up a significant proportion of employees - 58.3% of all women participate in the paid workforce (ABS 2008 Cat No. 6202.0). This is not just a social debate or one seen only in terms of its immediate economic impact. Only women can bear the next generation of workers. Employers must accept that they have a direct responsibility and vested interest in providing for the current generation of workers if they want to have the benefit of the next generation's labour.

Whether other leave entitlements, such as sick, recreation and long service leave should accrue during the period of paid parental leave, having regard to its costs and appropriateness

The Commission has stated that because there would be significant financial and (ongoing) compliance costs imposed on employers and a legislative burden placed on governments in order to amend the relevant industrial relations legislation, in its view, this would preclude leave accrual being considered a practical component of the proposed scheme (p 8.31).

The QNU notes the Commission's position in this matter. However, it is our view that the accrual of other paid leave entitlements whilst on paid parental leave is consistent with the federal statutory provisions [*Workplace Relations Act 1996* s316(1)] and prevailing industrial instruments covering the nursing profession in Queensland².

Further, we argue that this entitlement should not depend on *who* is paying for the parental leave, but rather on relevant industrial provisions, policies and custom and practice. It is also consistent with the employers' obligation to continue superannuation contributions proposed under the Commission's model. The QNU therefore believes that all paid leave entitlements should continue to accrue during the entire period of paid parental leave. This includes the 18 weeks of the proposed model as well as any other period of paid leave taken in combination with this leave.

The costs involved in mandating the provision of (capped) employer superannuation contributions while an employee is on paid parental leave

In our original submission, the QNU advocated a national parental leave scheme funded in part by a levy on all employers paid in addition to the Superannuation Guarantee (SG). Under the Commission's proposed model, the Federal Government would fund the payments based on the federal adult minimum wage (\$543.78) per week. Employers would pay superannuation at 9% of the payment or the employee's normal wages, whichever is *less*.

As the federal government funds the proposed parental leave entitlement, the requirement for employers to continue superannuation contributions is fair and reasonable. However, the QNU strongly advocates that the employer superannuation contributions should be at 9% of the payment or the employee's normal wages whichever is *greater* and should not require 12 months prior service with an employer. In respect to eligibility for Family Tax Benefit B, and payment of superannuation, we seek the inclusion of a provision that the parental leave payment will not leave any employee worse off overall.

The continuation of superannuation payments is an important aspect of any paid parental leave scheme. There is a large gap between the superannuation savings of Australian men and women. The current superannuation system linked to paid work, overwhelmingly disadvantages women who move in and out of

² We note that while s316 of the WR Act deals with the status of unpaid parental leave, generally all types of paid leave count as service for the purpose of calculating other forms of paid leave such as recreation, sick and long service leave. Williamson's (2008) post draft report submission (DR 264) sets out a comprehensive exploration of this matter.

paid work to care for family members. Women continue to earn less than men and are more likely to be engaged in casual and part-time work, which are also contributing factors to the gender gap in retirement savings (HREOC 2008). Recent research indicates that :

- Women have significantly less money saved for their retirement – half of all women aged 45 to 59 have \$8,000 or less in their superannuation funds, compared to \$31,000 for men (Kelly, 2006)
- Currently, the average superannuation payout for women is a third of the payout for men - \$37,000 compared with \$110, 000 (Clare, 2007).

In Australia, women working full-time today earn 16 per cent less than men (ABS Cat No. 6302.0). Importantly, the ABS (Cat No 4102.0) acknowledges that ‘women leaving work, or working part-time, to care for children are likely to be contributing factors to this pattern’.

Employer contributions to the SG would alleviate (at least for the period of paid parental leave) the QNU’s ongoing concerns regarding the \$450 earnings threshold for the SG entitlement. The current threshold seriously disadvantages those part-time and casual workers earning less than \$450 per month per engagement despite the fact that it is not uncommon for these employees to work multiple jobs that would take their total earnings over the \$450 threshold.

SUMMARY

The QNU welcomes the Productivity Commission’s proposed paid parental leave scheme. The provision of paid parental leave for nurses and midwives will benefit not just the employees and their families, but employers and the community in general. We ask the Productivity Commission to recommend to the Federal Government that the paid parental leave scheme become a National Employment Standard or separate statute to ensure that the provisions are legally codified and all eligible employees have the ability to participate fully in the labour market, the community and the family. These 3 elements are not mutually exclusive. However, they may remain so unless governments take cohesive action. A paid parental leave scheme is one way of breaking down the barriers.

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