



**Further Submission to
Productivity Commission Inquiry
PAID PARENTAL LEAVE: SUPPORT
FOR PARENTS WITH NEWBORN
CHILDREN**

In a social-democratic country like Australia, it is the responsibility of legislatures, other public authorities and community services to provide families with appropriate moral and material support.

Australian Catholic Bishops' Conference, *Families Our Hidden Treasure: A Statement of Family Life in Australia*, Aurora Books, Melbourne, 1993

Contact: Susan O'Connor
Director
Office for Employment Relations

Frank Quinlan
Executive Director
Catholic Social Services Australia

Phone: 03 9663 1775
Mobile: 0417 371 054
Email: oer@catholic.org.au

02 6285 1366
0409 655 460
frank.quinlan@catholicsocialservices.org.au

Table of Contents

Summary	3
Introduction	4
ACCER and CSSA	4
Scope of this Further Submission	4
Response to the Draft Report	5
Funding the Scheme	5
Costs of implementation	6
Employer provided assistance	6
Duration	6
Unintended consequences	7
Implementation issues	7
Eligibility	7
Independent analysis	8
Review Process	8

Summary

The debate about parental leave payments should move beyond the parameters of employment to being one about public policy and the provision of support to families. This approach would assist in the identification of support appropriate to the potentially diverse needs of women and families, now and into the longer term.

The ACCER and CSSA support a scheme of government and employer funded financial assistance to families as a vital part of shared social policy responsibilities. That is:

- the economic security of families should be supported throughout their lives;
- the health and welfare of mothers and newborn children should be supported;
- women should not be disadvantaged in their employment through their intrinsic role in child bearing; and
- society should assist women and men to manage their work and parental responsibilities so that the needs of children and families may be met in the context of modern Australian society.
- recognition of the social responsibility of all Australians to participate in the future of our nation.

Catholic Social Teaching is a set of teachings and principles based on Christian values that aim to bring about a good and just society. With respect to this submission, the Church places great importance on the interaction between the family and society. It is stated:

Formatted: Bullets and Numbering

“The family has a right to assistance by society in the bearing and rearing of children.”¹

“Families have the right to be able to rely on an adequate family policy on the part of public authorities in the juridical, economic, social and fiscal domains, without any discrimination whatsoever.”²

¹ The Holy See, *Charter of the Rights of the Family*, Rome, October 1983.

² *ibid.*, Article 9.

Introduction

ACCER and CSSA

This further submission is made jointly by the Australian Catholic Council for Employment Relations (ACCER) and Catholic Social Services Australia (CSSA) to the Productivity Commission for its public inquiry into Paid Maternity, Paternity and Parental Leave.

ACCER is an agency of the Australian Catholic Bishops Conference. The Catholic Church is one of Australia's largest employers. Over 100,000 people are employed in health, education, community services and church administration. ACCER provides advice to the Bishops on employment policies and is a public advocate for policies which are consistent with the principles of Catholic Social Teaching concerning work and the employment relationship.

CSSA, an agency of the Australian Catholic Bishops Conference, is the Catholic Church's peak national body for social services. It represents 64 member organisations which employ over 6,500 people, and supports its members' delivery of a wide range of social service programs. CSSA also advises the Australian Catholic Bishops Conference on social policy issues and advocates publicly for social policy consistent with Catholic Social Teaching.

Scope of this Further Submission

This further submission addresses the draft recommendations as set out in the Productivity Commission's *Draft Inquiry Report*.³ As in our original submission we focus on the:

- Needs of the family;
- Common good⁴

³ Productivity Commission (2008) Paid Parental Leave: Support for Parents with Newborn Children Draft Inquiry Report

⁴ The meaning of the “**common good**” in Catholic Social Teaching is explained as follows in the *Compendium of the Social Doctrine of the Church* issued in 2004 by the Pontifical Council for Justice and Peace (footnotes omitted; emphasis in original):

164. *The principle of the common good... stems from the dignity, unity and equality of all people. According to its primary and broadly accepted sense, the common good indicates “the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfillment more fully and more easily”. The common good does not consist in the simple sum of the particular goods of each subject of a social entity. Belonging to everyone and to each person, it is and remains “common”, because it is indivisible and because only together is it possible to attain it, increase it and safeguard its effectiveness, with regard also to the future. Just as the moral actions of an individual are accomplished in doing what is*

Catholic Social Teaching espouses that society has a role in fostering the formation and development of a family. For example, Pope John Paul II identified that:

“just as the intimate connection between the family and society demands that the family be open to and participate in society and its development, so also it requires that society should never fail in its fundamental task of respecting and fostering the family.”⁵

Pope John Paul II continued to place specific responsibility on society in supporting families:

“In the conviction that the good of the family is an indispensable and essential value of the civil community, the public authorities must do everything possible to ensure that families have all those aids - economic, social, educational, political and cultural assistance - that they need in order to face all their responsibilities in a human way.”⁶

Response to the Draft Report

Funding the Scheme

The use of the Federal Minimum Wage is considered manifestly inadequate as the benchmark for payments in this scheme. We continue to call for further consideration of the leave payment amount to be ordinary time earnings or average weekly earnings, whichever is the lesser, with superannuation payments continued as normal.

Even more so in the current economic climate a jointly funded scheme is crucial. Spreading the funding of the scheme across the whole community is seen as a just and equitable way of sharing the social responsibility.

The scheme should be jointly funded by government and **all** employers through a pooled fund, in recognition of the significance of paid parental leave as both a crucial employment entitlement and an essential financial support for families. Each employer's contribution should be assessed according to

good, so too the actions of a society attain their full statue when they bring about the common good. The common good, in fact, can be understood as the social and community dimension of the moral good.
http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html#Meaning%20and

⁵ Pope John Paul II, *Familiaris Consortio*, Pauline Books and Media, Boston, 1981, paragraph 45.

⁶ *ibid.*

staff numbers or payroll or a similar measure (i.e. without reference to the number of employees actually using or likely to use paid parental leave). All employer contributions should be collected into an “employer pool” of funds to guard against disproportionate impacts on sectors with higher proportions of female employees, and to avoid any risk of exacerbating workplace discrimination against women. The pooled funds may also incorporate the payment of paternity leave and superannuation payments for fathers.

In considering the optimal ratio of government to employer funding, a useful starting point could be:

(i) Government funding at the amount of the New South Wales Minimum Wage (currently \$552.70) or alternatively an amount equivalent to the ACCER and CSSA submissions on the Federal Minimum Wage ; and

(ii) Employer pool funding of the gap between NSW Minimum Wage and the full payment amount (i.e the gap between NSW Minimum Wage and either the employee's ordinary time earnings or average weekly earnings, whichever is the lesser).

We recommend that the baby bonus be retained but increased, annually indexed, and subjected to a far more stringent means test (e.g. one similar to that used for Family Tax Benefit Part A).

Cost of implementation

Steps should be taken to ensure the capacity of not-for-profit community sector employers to meet mandatory employer contributions. The funding model suggested above would only be possible if small and especially community sector employers were protected by special measures from the implementation, transitional and regulatory costs of the new scheme.

In most cases, this will require governments to add additional funding under existing contractual arrangements to cover agencies' mandatory contributions to the employer pool. This is especially necessary given that current government funding for the community sector is well below the real cost of service delivery, and terms and conditions of employment are often well below those for equivalent positions in government or the private sector.

Employer provided assistance

The relationship between current agreement or award provisions for paid maternity leave and the proposed Parental Leave payment requires further examination as to the operation and timing of the payment with any other entitlement that the employee may have under the terms of any other employment agreement, award or law.

Duration

We support the initial introduction of an 18 week scheme and would continue to recommend scheme reviews mandated to consider phasing this up to 26 weeks (reflecting WHO breastfeeding

recommendations) by the earliest practicable date. Further, the commencement of the paid leave at the birth of a child does not consider the health and welfare of the mother prior to the birth or the financial burden on families during this time in preparing for the birth.

Unintended consequences

The proposal to provide access for 18 weeks after any period of other continuous leave and before six months after the birth raises several issues. This may preclude employees where employer funded leave is provided in excess of six months if the current standard of 52 weeks is maintained.

Many award and agreement provisions for parental leave commence six weeks prior to the birth. We recommend that payment is made available at the commencement of the leave entitlements not at the time of birth.

Implementation issues

The earliest adoption of this scheme is imperative and should not be delayed by current economic circumstances.

The proposed administration of the scheme may place an unfair burden on small employers to fund the statutory parental leave entitlements while also in many instances funding replacement employees. The proposal to fund some payments through the employer with a reimbursement scheme may require the funding of a "watchdog" which would add additional costs to the scheme.

The proposal to fund some payments through a credit scheme with withholding payments to the ATO may overly complicate the payment and administration of the scheme. The proposed scheme should be administered through one source via an agency separate from Centrelink.

Eligibility

Current legislated unpaid leave is based on a person being the *primary care giver* of a child. This is intended to provide a degree of flexibility to families in determining the most appropriate carer of a child. Significantly, this was recognised by the Australian Industrial Relations Commission [the AIRC] in its 1990 Parental leave decision. In that decision, the AIRC indicated that it was "*persuaded that families should have a choice as to which parent becomes the primary care-giver of a child, when both [parents] wish to remain in the workforce.*"⁷

⁷ Cohen, J., Moore, DP., Politics, DP., Griffen, C., Turbet, C., *Parental Leave Case*, Print J3596, Melbourne, 1990, page 9.

However, the introduction of a payment based essentially of a maternity leave provision may act unintentionally to reinforce the traditional portrayal of the role of women as the primary providers of care. The consideration of who is to be the primary care giver of a family should be the decision of the family. In this respect, both the payment and the provision of leave by the government should be to the *primary care giver* of a child.

Social inclusion objectives should be prioritised in scheme design. More specifically, the scheme's explicit objectives should include redressing existing inequalities between low-skilled, low-paid, part-time, seasonal and casual employees (or would-be employees) and other employees. Furthermore, great care should be taken to guard against any inadvertent exacerbation of these inequalities. The average of 10 hours per week has the effect of excluding many part-time and casual workers.

Independent analysis

Independent analysis and reappraisal of the effectiveness of current and proposed family assistance payments needs to be undertaken in conjunction with the introduction of any new form of payment to families, either by way of paid maternity leave and/or other forms of support. This independent analysis and reappraisal would allow a comprehensive investigation of the totality and diversity of options that might assist families to balance not only their work and family commitments but to ensure that public policy is implemented for the long term rather than from the consideration of one matter in isolation.

In this respect, an extensive examination of current family assistance payments may lead to new thinking about government support and the most appropriate way of meeting the needs of families via a holistic and coordinated approach.

Review Process

A consultative review of the scheme, mandated by statute, should be undertaken after its first two years in operation. As well as assessing impacts of the kind raised in the terms of reference of the present inquiry, the review should pay particular attention to the adequacy of the scheme's leave payment amounts, leave duration, eligibility criteria and arrangements regarding the right to return to work; and also the adequacy of governmental contributions to social service contributions in terms of enabling community sector employers to meet mandatory employer contributions. In light of its findings, the review should recommend policy and legislative changes aimed at improving the operation, economic and social impact, and equity of the scheme. A similar but more comprehensive review should take place after five years of the scheme's operation to help ensure and enhance the scheme's efficacy.