



February 2021

# Submission to the Review of the Maternity Leave (Commonwealth Employees) Act 1973

The *Maternity Leave (Commonwealth Employees) Act 1973* (Maternity Leave Act) currently provides maternity leave entitlements for Commonwealth public sector employees, and employees of certain other federal Australian Government agencies, who are pregnant and give birth to a child.

The review of the Maternity Leave Act states that it will focus on the health and career needs of birth mothers while considering flexibility and superannuation entitlements while on parental leave. The review is intended to ensure that the Australian Public Service is an employer of choice and provides a supportive environment for working parents or carers.<sup>1</sup>

The Workplace Gender Equality Agency's (WGEA or the Agency) submission provides examples of current parental leave leading practice within the private sector. Leading practice organisations in the Australian private sector provide equal access to parental leave for all parents or carers, regardless of their sex, gender or their status as 'primary' or 'secondary' carer. Leading practice employers also offer other benefits such as extended leave periods, superannuation contributions and the elimination of service length eligibility periods. These measures not only attract and retain talent, but they also support Australian families. The review is an opportunity for the federal public sector to establish itself as an employer of choice for gender equality by matching leading practice parental leave measures already established in the private sector.

Paid parental leave plays a crucial role in supporting women's engagement in the workforce and promoting gender equality. Evidence indicates that providing parental leave at wage replacement levels is an effective measure to mitigate the negative career impacts of childbearing and rearing for women.<sup>2</sup> Parental leave is proven to improve economic outcomes for women as well as their health and the health of their babies<sup>3</sup>. The Agency welcomes the review of the Maternity Leave Act as an important measure for workplace gender equality for the Commonwealth public sector.

WGEA acknowledges however that legislation alone is not enough to promote more equitable utilisation of parental leave between women and men in the workplace. WGEA data indicates that in the private sector currently only approximately 12% of primary carers leave is taken by men.<sup>4</sup> The review of the Maternity Leave Act provides an opportunity to lay the foundation for more equitable sharing of care for children, and furthermore it provides the incentives to promote cultural change towards more equal share of care across families. Research suggests that men are less likely to take leave and therefore need support and engagement to take parental leave or similar to care for their children.<sup>5</sup> For this reason, WGEA suggests that amendments to the Maternity Leave Act include a purpose statement which reinforces support for parents and carers in the workplace regardless of their sex, gender, or carer status. The name of the legislation should also be amended to reflect more inclusive and gender-neutral language.

## Key points

- The terms 'primary' and 'secondary' carer reinforce gendered notions of who should be undertaking the bulk of child-care related work. Leading practice in the private sector is to remove these terms and give all parents or carers equal access to parental leave regardless of their sex, gender or carer status. The

name of the legislation should also be amended to reflect more inclusive and gender-neutral language. Couples that are both employed by the same public sector entity should also have equal access to leave entitlements.

- The 12-month eligibility period for employees to access parental leave should be removed. There should be no eligibility period for employees to access parental leave. This is consistent with leading practice in the private sector.
- Federal public sector entities will soon begin reporting to WGEA on a mandatory basis. Currently, the provisions covered within the Maternity Leave Act do not meet the standards required to qualify for WGEA's Employer of Choice for Gender Equality citation program. For the public sector to qualify as an employer of choice for gender equality, the legislation will need to be amended.
- The amount of parental leave offered should be increased to a minimum of 18 weeks, which is already leading practice in the public sector. The most generous quantum provided by some organisations in the private sector is 26 weeks of paid parental leave, which is made available to any employee who becomes a parent or caregiver upon the birth, adoption, or permanent placement of a child regardless of their sex, gender, or carer status. Evidence indicates that parents and carers want more flexibility when it comes to how and when they utilise parental leave. Current leading practice in the private sector is to give parents and caregivers the ability to utilise leave in shorter blocks or as negotiated with their employer, during the first two years after the birth, adoption, or permanent placement of their child. WGEA advocates that a protected period of 6 weeks both before and after birth be preserved for mothers. However, pregnant employees with the support of their healthcare provider should have the ability to keep working up to a closer period before the expected due date, in negotiation with their employer.
- Providing equal access to parental leave challenges the unpaid-labour gap and enables women with more time to spend on paid employment, leading to higher household income and greater economic independence. Evidence shows that men are more likely to take parental leave if it is flexible and highly remunerated.
- Data indicates that taking leave from the workforce to care for children is a driver of the gender pay gap which compounds over time and contributes to the lifetime earnings gap.<sup>6</sup> To counter this, leading practice organisations in the private sector make superannuation contributions for parents or carers on parental leave. At a minimum, this should cover all paid leave however leading practice in both the public and private sectors is to pay superannuation on all parental leave, both paid and unpaid.

## The research on paid parental leave and gender equality

According to the Australian Bureau of Statistics, the majority (69.9%) of couple families with dependent children involve both parents engaged in the workforce.<sup>7</sup> In single parent families with dependent children, 61.3% of single mothers are employed and 75.8% of single fathers are employed.<sup>8</sup> Given that such a high proportion of Australian employees are involved with the caring of children, it is important that they feel supported in the workplace. Research indicates that supporting employees who are parents or carers promotes gender equality<sup>9</sup> and has added benefits for employee retention and workplace productivity.<sup>10</sup>

### Benefits for families

Maternity leave has enabled mothers to spend the first crucial weeks or months of a child's life recovering from birth and nurturing the baby. This has a direct impact on the health and wellbeing of both mothers and their children. The International Labour Organisation (ILO) recommends a minimum of 18 weeks of leave in the Maternity Protection Convention (2000) to protect this period and promote improved health and wellbeing outcomes.<sup>11</sup> An Australian review of paid parental leave schemes found that taking leave had positive impacts for the mental and physical health of Australian mothers.<sup>12</sup> Furthermore, research indicates that paid parental leave and job protection in the first 6 months after the birth of a child supports workplace attachment and has a positive impact on the probability of a return to work in the first year.<sup>13</sup>

The longitudinal Household, Income and Labour Dynamics (HILDA) survey continues to report that women are spending more time on unpaid household and domestic tasks, including childcare. The gap between women and men is particularly large among couples with dependent children.<sup>14</sup> The data indicates that the gap widens at the birth of the first child, when women's time spent on unpaid work increases significantly.<sup>15</sup> Men's time spent on unpaid work also increases, but to a much smaller degree. In terms of total time working on both paid and unpaid work, this is relatively equal until the birth of the first child after which women spend more total hours working than men.<sup>16</sup> This pattern remains until children reach school age when total time worked becomes more equitable again, but women continue to spend more time on unpaid work even into the second decade of their children's lives.<sup>17</sup> Research indicates that fathers or partners who take leave are also more likely to participate in childcare on an ongoing basis as well as contributing to other domestic and

household responsibilities.<sup>18</sup> When fathers or partners take parental leave, households establish more equitable patterns in the division of unpaid work.

While many of the gendered norms relating to what kinds of work women and men do were created in the past, women have entered the workforce in unprecedented numbers since the 1960s<sup>19</sup> and now 63% of fathers with dependent children have a partner in paid work.<sup>20</sup> While family work and life structures may have already changed, traditional attitudes about who should be caring for children remains and this translates into the workplace where men are less likely to have requests for parental leave or flexible working arrangements approved by their employer.<sup>21</sup> Despite this, research indicates that Australian men are increasingly interested in being active and engaged fathers.<sup>22</sup>

There is now evidence to suggest that mothers also benefit when fathers or partners take parental leave when a new child enters the household. The research suggests that when fathers take leave, mothers receive more emotional support and experience less stress.<sup>23</sup> Likewise, there are known well-being and happiness increases for fathers who are involved in childcare.<sup>24</sup> Research indicates that fathers who are involved in the care of their family are less likely to engage in risky behaviours such as smoking and alcohol consumption.<sup>25</sup> Men who engage in childcare have reported increases in new skills acquisition such as prioritisation, role modelling and compassion – skills that are also highly desirable in the workplace.<sup>26</sup>

Parental leave has positive impacts for children as well. A study of 18 countries in the OECD found that job-protected paid parental leave had a positive impact on infant mortality rates.<sup>27</sup> In a similar vein, a study from Sweden found that longer durations of parental leave were also associated with longer periods of time spent breastfeeding. Extended breastfeeding is associated with positive health benefits for both children and their mother.<sup>28</sup> There are also health and well-being benefits for children when fathers or other parents take parental leave. There is evidence to suggest that when fathers take parental leave, their children benefit from better relationships with them over their lifetime as well as stronger performance at school.<sup>29</sup> When paid and unpaid work is more equitably distributed among both parents or carers, children also benefit from higher household income levels which in turn leads to increased access to quality healthcare and education services.<sup>30</sup>

## Benefits for Workplaces

Providing employer funded paid parental leave sends a strong signal to employees that their organisation is committed to supporting and retaining them,<sup>31</sup> and it can be a cost-effective measure to retain valued employees.<sup>32</sup> The evidence suggests that paid parental leave is linked to increased job satisfaction, as well as increased employee productivity and loyalty.<sup>33</sup> Parental leave is also associated with reduced employee turnover and the associated recruitment and training costs, which also has a positive impact on staff morale and organisational efficiency through the retention of institutional memory, industry knowledge, networks and contacts.<sup>34</sup>

Organisations that support fathers and partners to take parental leave also report better recruitment, retention, and promotion rates, which in turn lead to stronger performance and productivity.<sup>35</sup> A study undertaken by Diversity Council Australia in 2012 found that parental leave was a key driver of employment decisions as well as job performance not just for women but also for men, including young men, male managers, men approaching retirement, and for young fathers.<sup>36</sup> For this reason, it is increasingly important that organisations support their male employees to use parental leave. Evidence also suggests that more equitable uptake of parental leave between women and men in the workplace can help to moderate discrimination in the recruitment process by normalising parental leave and reducing bias against mothers and women of childbearing age.<sup>37</sup>

## Benefits for the Economy

Increasing female workforce participation is a focus of Australian economic policy and strategy. The Australian Government's 2020 Women's Economic Security Statement prioritises the increase of women's choices in the workplace and the reduction of barriers for women seeking paid work.<sup>38</sup> Economic modelling undertaken by the Australia Institute in 2020 found that increasing women's workforce participation to be equal to Iceland would boost Australia's Gross Domestic Product by up to \$140 billion.<sup>39</sup>

Women's workforce participation continues to be lower than men's across most age groups but the largest gap is when women enter their 30's,<sup>40</sup> which correlates to the decade in which women are most likely to be raising young children.<sup>41</sup> For parents whose youngest child was under the age of six, only 65.5% of women

participated in the labour force in 2019-20, compared with 90% of men.<sup>42</sup> Female workforce participation improved significantly for women whose youngest child was in the 6 to 14-years age bracket (80.2%), indicating that women are re-entering the workforce when their children reach school age.<sup>43</sup>

Bridging the employment gap for women who care for non-school aged children is therefore an important economic strategy. Parental leave is associated with higher workplace attachment and return to work rates.<sup>44</sup> Sharing the care more equitably between women and men is another strategy for boosting women's workforce participation. A study undertaken by the World Bank in developing countries found a 6.8% increase in female workers within organisations which mandated parental leave for males,<sup>45</sup> indicating that when men take time off to care for their families, women are more likely to enter or return to the workforce.

### **Current uptake of employer-funded paid parental leave**

WGEA data covers all relevant private-sector organisations with 100 or more employees. The 2020-21 WGEA dataset shows that 60% of employers in the private sector offer access to primary carers leave. Of these, 91% offer primary carers leave regardless of gender. This indicates that even though it is not a legislated requirement, employer-funded parental leave is now becoming normalised and entrenched in Australian workplace culture. The data shows that women still comprise 88% of employees who take primary carers leave while men comprise just 12% of primary carers leave takers. While male uptake has improved by 5.5 percentage points since 2019-20,<sup>46</sup> men continue to be much more likely to take secondary carers leave (97% of secondary carers are male).<sup>47</sup>

In terms of male usage of paid parental leave, the share of men using parental leave is higher in countries where parental leave is paid at salary level.<sup>48</sup> For this reason, to encourage male uptake it is important that men have more equitable access to employer-funded parental leave, which is generally paid at full wage.

### **The gender pay gap and utilisation of paid parental leave**

The gender pay gap means that on average, men are likely to earn more money than women, and this has financial implications for families when it comes to determining who will take time out of the workplace to care for young children. There are also cultural barriers in Australia related to traditional gender norms around who should be caring for children which present additional barriers for men when it comes to taking parental leave.<sup>49</sup>

However, there are examples from around the world where male utilisation of parental leave is much higher. These countries tend to have high income replacement levels providing the financial security and incentive for men to take leave.<sup>50</sup> Currently, the disproportionate share of time out of the workforce that women take to care for children contributes to the lifetime earnings gap which has real, lived implications for women at retirement age.<sup>51</sup> It is important that men have equitable access to employer funded parental leave at full-wage replacement to better support families to balance equitable caring with their financial responsibilities.

## **Leading Practice in the Private Sector**

### **Leading practice organisations promote gender neutral and equal access parental leave**

Leading practice employers in the private sector are increasingly moving towards gender neutral parental leave policies that offer equal amounts of leave to all new parents or caregivers, regardless of their 'primary' or 'secondary' carer status, sex or gender identity. A study of WGEA Employer of Choice for Gender Equality (EOCGE) organisations, undertaken by the University of Queensland, found that there were very few leading practice organisations that deviated from this trend.<sup>52</sup> Leading practice organisations have adopted more inclusive language in policies which define parenthood to include same sex couples, transgender family units as well as grandparents or other relatives that may be caring for the child.<sup>53</sup>

Providing equal access to parental leave challenges the unpaid-labour gap and leaves women with more time to spend on paid employment, leading to higher household income and greater economic independence.<sup>54</sup> It is clear also that father or partner involvement in childcare has positive outcomes for mother's health outcomes, with evidence that greater father or partner involvement provides mothers with a stronger sense of well-being, heightened relationship satisfaction and an enhanced ability to balance their home life when returning to the workforce.<sup>55</sup>

### Private sector case study: Lion

In 2021, Lion announced that they had removed any distinction between 'primary' and 'secondary' carer from their parental leave policy. Offering a total of 12 weeks of paid leave to all new parents and an additional six weeks of superannuation on unpaid leave, to cover a total of 18 weeks.

Lion have stated that they did this to address the superannuation savings gap between women and men.

Lion have also embraced flexibility measures, allowing parents to take their leave flexibly within the first two years of a child's life.

Lion have been clear and on the record about these measures, stating that they support gender equality in the workplace.

Reference: <https://lionco.com/2021/09/03/lion-offers-full-parental-leave-to-all-workers/>

## Leading practice organisations have no eligibility period for access to parental leave

In previous years, it has been standard practice to include a mandatory service period of 12 months before employees become eligible to access paid parental leave. However, leading practice in the private sector is now moving towards reducing or removing this eligibility period altogether. Furthermore, leading practice organisations do not place restrictions on couples where both parents or carers work for the same organisation.<sup>56</sup>

One issue with attaching an eligibility period to parental leave is that it can reduce the ability for parents to pursue career mobility, including potential promotion opportunities. In this respect, parents (particularly women) who are thinking about having children may pass over career opportunities to stay with an employer and qualify for parental leave.<sup>57</sup> This could be reducing the talent pool from which the public sector can recruit. Research on leading practice organisations reports that organisations are now deliberately reducing or eliminating eligibility periods to both support pregnant employees and to become more attractive potential employers to an underutilised talent pool.<sup>58</sup>

Furthermore, it is estimated that half of all pregnancies in Australia are unplanned.<sup>59</sup> Attaching an eligibility period to parental leave does not reflect the reality that often pregnancy is not something that is planned in advance. Whether planned or unplanned, parents require support from their workplaces at this crucial stage in their lives and it is clear that there are benefits for workplaces that support employees with caring responsibilities.

To reflect leading practice, WGEA has included the removal of an eligibility period in its criteria for its leading-practice recognition program, the Employer of Choice for Gender Equality citation. The citation aims to "promote organisations' active commitment to achieving gender equality in Australian workplaces".<sup>60</sup> The evidence-based criteria cover seven focus areas including 'support for caring'. Organisations that are awarded the citation undergo a stringent process of analysis that involves an assessment of policies and practices as well as employee experiences within the workplace through an extensive consultations process. Research which explores the shared qualities of organisations that have been awarded the EOCGE citation<sup>1</sup> found that leading practice organisations have detailed policies and practices that support the retention of women in the workplace and promote gender equality.<sup>61</sup>

To date, public sector entities have not been eligible to apply for the EOCGE citation as they are not a 'relevant employer' under the *Workplace Gender Equality Act (2012)* and do not report their workplace gender equality data to the Agency. However, in response to recommendation 43(a) in the *Respect@Work* report, the Australian Commonwealth Government announced that all federal public sector entities<sup>2</sup> will be required to report to the Workplace Gender Equality Agency from the 2022-23 reporting period.<sup>62</sup> This will mean that Australian Public Service entities will soon become eligible to apply for the EOCGE citation. However, an assessment undertaken by the Agency has determined that limitations placed on eligibility for parental leave within the *Maternity Leave Act* will preclude relevant public sector entities from achieving the citation. The limitation embedded within the legislation requires employees to have completed 12 months of service prior to the beginning of their parental leave period.<sup>63</sup> Unless the *Maternity Leave Act* is amended,

<sup>1</sup> The EOCGE program was identified in the 2020 *Respect@Work: Sexual Harassment National Inquiry Report (Respect@Work report)* as an important driver of workplace gender equality and a useful tool for addressing sexual harassment in the workplace.

<sup>2</sup> In December 2021, National Cabinet announced in principle agreement to provide state and territory workforce data to the WGEA also

public sector entities will not be able to meet the requirements for the EOCGE citation and Australian families will continue to be negatively impacted.<sup>3</sup>

#### **Private Sector Case Study: Aurecon**

In 2019, Aurecon announced that they were providing 14 weeks of paid leave to all new parents, with no service length eligibility period. This also includes employed couples, where both parents are employed by the company. Aurecon have also implemented flexibility measures, allowing employees to take their leave flexibly if required. For example, an employee could take 3 days of leave and do 2 days of work over a period. The company also pays superannuation on all paid leave and on an additional 14 weeks of unpaid leave. Notably, Aurecon has provided employees with incentive to return to work by offering 150% on their salary if their partner takes unpaid parental leave to care for a new child (ie. their employer does not offer paid parental leave), enabling the Aurecon employee to return to work.

### **Leading practice organisations offer extended parental leave**

WGEA data reveals that leading practice organisations in the private sector are now offering a minimum of 18 weeks of paid parental leave with some organisations offering as many as 26 weeks (6 months). Not only does extended leave make an employer more attractive to potential employees, an 18-week minimum is consistent with ILO standards outlined in the Maternity Protection Convention (2000), which aims to protect the health and wellbeing of new mothers and babies.<sup>64</sup>

Evidence from a study of multiple OECD countries suggests countries that offer extended paid-protected leave report decreased infant mortality rates when compared with countries that offer less generous leave. The study reported that the longest quantum of paid-protected leave was 68 weeks (Sweden) whereas the least generous leave offered was not job-protected and was restricted to 12 weeks (USA).<sup>65</sup> The study controlled for various factors including GDP and expenditure on healthcare as a percentage of GDP and found that after controlling for country characteristic variables, a 10-week extension in paid leave predicted a decrease in infant mortality rates by up to 2.5%, a meaningful reduction given the already comparatively low infant mortality rates reported across the OECD when compared with non-OECD countries.<sup>66</sup> This indicates that the amount of leave offered not only matters for financial reasons, it has real implications for the health and wellbeing outcomes of Australian families.

#### **Public sector case study: Infrastructure Australia**

In 2021, Infrastructure Australia announced that they would be offering equitable parental leave to all parents (regardless of 'primary' carer status) for a total of 18 weeks, making them the first federal government agency to offer equal access leave. They have also introduced flexibility in how employees can take the leave, for example: in one block, in several blocks or a day or two a week over 12 months.

Infrastructure Australia are also offering all employees who are about to go on parental leave executive coaching sessions to help them to transition into working parenthood.

#### **Private sector case study: KPMG**

KPMG is a leader in the field when it comes to leading practice paid parental leave. The organisation offers extended parental leave and flexibility on how and when the leave is taken.

KPMG currently offers extended leave entitlement of up to 26 weeks, with equitable access for all parents or carers regardless of 'primary' carer status and with no eligibility period.

Notably, KPMG supports parents to have more control over how and when they take their leave within the first two years of a child's life, with no conditions placed on accessing subsequent periods of paid parental leave.

Reference: <https://www.afr.com/politics/federal/new-kpmg-boss-lifts-paid-parental-leave-to-26-weeks-20210701-p585u3>

<sup>3</sup> Consideration may need to be given to how this would interact with legislation related to unpaid carers leave, such as the *Fair Work Act (2009)*



## Leading practice organisations offer parents and carers more flexibility on when and how they utilise parental leave

WGEA data reveals that leading practice organisations within the private sector are increasingly offering their employees flexibility on how they take their parental leave within the first 24 months after the birth, adoption, or permanent placement of a child.

WGEA continues to support a protected period of 6 weeks directly after the birth of a child for the parent who gave birth. This period is necessary for the health and recovery of the parent and should continue to be a mandatory requirement within the legislation as a matter of workplace health and safety. WGEA also supports a period of 'pregnancy leave' available to the pregnant employee in the 6 weeks leading up to the expected birth of a child. This is consistent with the entitlements for pregnant employees outlined in the *Fair Work Act (2009)* and will ensure that any pregnant public sector employee who begins leave in the weeks before their expected due date will be covered by employer funded parental leave payments.<sup>67</sup> Pregnant employees may choose not to utilise leave during this 6-week period, in discussion with their employer and their healthcare provider. It is noted that the *Fair Work Act (2009)* allows an employer to ask a pregnant employee to provide a medical certificate indicating their fitness to work if they continue to work during the six-week period before the expected due date.

After these protected periods though, employees with parental responsibilities can benefit from more flexibility in how and when parental leave is utilised. Currently, the Maternity Leave Act requires that all parental leave be taken as part of one continuous block. This requirement is not consistent with leading practice in the private sector where organisations are increasingly including flexibility in their parental leave policies. In negotiation with their employers, these measures allow employees to, for example: split leave into two or more blocks, or to use leave in combination with paid workdays to facilitate a graduated return to work. Current leading practice is to allow flexible leave to be taken for up to two years after the birth, adoption, or permanent placement of a child.<sup>68</sup>

For parents who did not give birth, the ability to take leave when and as needed is an attractive prospect as this may allow them to step in to support when it is most needed. Providing flexibility can also help parents to transition back into work and help children to adjust to a new caring arrangement.

### Private Sector Case Study: Stockland

In 2021, Stockland announced that they would provide equal access to fully paid parental leave for all employees with superannuation contributions made on both paid and unpaid portions of the leave.

Stockland offers 20 weeks of paid leave which can be taken flexibly over a period of 24 months. In a 2021 media release, they announced "Our team has up to 24 months to take their leave and it can be taken in a single block, in multiple blocks or by taking just one or two days per week in a part time capacity (to the total of 20 weeks) ensuring our people can transition back to work in a more family-friendly way"

Notably, Stockland has prioritised increasing male uptake of parental leave. Stockland reports that over the past 4 years, they have seen a 64% increase in the number of men taking parental leave. Not only is removing gendered language and the primary/secondary labels important for promoting male uptake, Stockland exemplifies the importance of cultural change and normalising men taking leave to care for their families.

Reference: <https://www.stockland.com.au/media-centre/media-releases/stockland-offers-up-to-24-months-flexible-and-inclusive-parental-leave-and-removes-carer-distinction>

## Leading practice organisations make employee superannuation contributions during parental leave

Employers are not required by law to make superannuation contributions for employees on paid parental leave, however leading practice organisations in the private sector are increasingly doing so. At a minimum, leading practice employer are making superannuation contributions on top of their employer funded paid parental leave. Increasingly, leading practice organisations are now going beyond this to offer superannuation on all forms of parental leave, both paid and unpaid. This is because leading practice organisations recognise that not paying superannuation to an employee while they are on parental leave has

a direct impact on their future health and well-being in retirement. It also contributes to the gendered superannuation savings gap.

The national gender pay gap across all sectors of the Australian workforce is currently 14.2%.<sup>69</sup> WGEA private sector remuneration data that incorporates total remuneration (ie. all forms of discretionary pay) is even larger at 22.8%.<sup>70</sup> The Grattan Institute projects that over a lifetime, the average woman with children will earn approximately \$2 million less than the average man with children, this is known as the lifetime earnings gap.<sup>71</sup> These gaps are closely related to the superannuation savings gap. According to 2019 data from the Australian Taxation Office, the gendered superannuation savings gap at age 30-34 was approximately 17.5% which equated to \$8,935 more on average in men's super-funds. By the age of retirement (60-64) this had widened to 19.6% or \$70,691 more in men's super-funds on average.<sup>72</sup>

In a study of EOCGE citation holders, one organisation was revealed to be offering an increase in superannuation payments for up to five years for unpaid parental leave and part-time work periods. This was offered as a point of employment differentiation and the organisation stated that it was an attempt to "...make an enormous difference to the retirement savings of female employees who traditionally take extended time off to have children and often return to work part-time."<sup>73</sup> Another organisation with similar concerns offered a \$500 per annum additional superannuation contribution for female employees.<sup>74</sup> This indicates the leading practice organisations understand that superannuation during parental leave is both a gendered issue and a way to support their employees and help them to feel that their future is financially secure while they take necessary leave to care for their families.

#### **Private Sector Case Study: DLA Piper**

DLA Piper offer their employees 18 weeks of paid parental leave and have removed references to gender to actively encourage men and or non-birth parents who did not give birth to take parental leave. Non-birth fathers or other parents are also offered three weeks of paid co-parent leave, available to them at the time of birth. Employees are also offered 5 days of paid fertility leave each year, to access fertility treatments.

DLA Piper is a leader in the field when it comes to paying superannuation contributions for employees who are on parental leave. Not only does DLA Piper cover paid parental leave, but the organisation also continues to make superannuation contributions during any unpaid components of parental leave for a period of up to 12 months.

#### **Public Sector Case Study: Workplace Gender Equality Agency (WGEA)**

The WGEA is an Australian Government Statutory Agency. The WGEA offers female employees 12 weeks of paid parental leave in accordance with the *Maternity Leave (Commonwealth Employee) Act 1973*, the Agency also offers an additional 5 weeks of leave bringing the total to 17 weeks of paid leave.

Parental leave is available to employees of the WGEA upon the birth, adoption, or long-term placement of a child under the age of 16.

Upon return to work, breastfeeding parents can take up to an hour of paid leave per day for breastfeeding purposes.

Notably the WGEA makes superannuation contributions on behalf of employees on parental leave during all periods of leave, both paid and unpaid for up to 12 months.

### **Additional Leading Practice Measures**

Parents or carers who take leave for a period to care for their families are more likely to face disadvantages in their career and may need specific support from their workplaces to overcome these disadvantages. In addition to the leading practice measures already outlined in this submission, the following measures are also trending within the leading practice cohort of the private sector:

- **Asset use entitlements:** leading practice organisations are ensuring that their employees maintain access to any company vehicles, laptops, mobile phones, or other assets while they are on leave. The organisation continues to cover the costs associated with these assets.
- **Insurance benefits and allowance continuation:** Where insurance benefits are offered to employees, such as health insurance, life insurance, disability insurance or salary continuance



insurance, leading practice organisations ensure that these benefits are extended for employees who are on parental leave.

- **Long service accrual:** Leading practice employers include periods of paid and unpaid parental leave for the purposes of long service leave accrual.
- **Annual and personal leave accrual:** Parents or carers who return to work after parental leave still require time off when they get sick, and they may also require time off to care for their child at times. Having a healthy leave balance on returning to work supports parents or carers to care for themselves and for their family.
- **Additional leave for parents or carers who have returned to work:** to be used, often flexibly, to adjust to balancing work with their new caring commitments.
- **Access to leave or separate leave for staff where their families have experienced a miscarried pregnancy or special bereavement leave where a child dies in the first year after birth:** currently employees who access leave due to stillbirth or infant death in the first 24 months of life are entitled to access up to 12 months of unpaid leave as outlined in the Fair Work Act (2009). Leading practice organisations are ensuring that employees experiencing these tragic circumstances have access to special paid leave entitlement.
- **Parking for employees who are close to term for their pregnancy**
- **Return to work payments for parents or carers to assist with costs of transitioning back into the workplace**
- **Special leave for IVF treatment or for pre-natal medical appointments**
- **Stay-in-touch programs:** many leading practice organisations credit stay in touch programs with greater retention rates of parents or carers who are returning to work after parental leave. Stay-in-touch programs might involve paid stay in touch days, checking in with employees (to the degree that they request) while they are on leave, invitations to social events, inclusion in key communications, access to intranet/keeping-in-touch infrastructure and scheduled conversations with managers with the goal of preventing disconnection and helping employees to transition back to work more smoothly.
- **Ongoing training and development**

## Conclusion

For the public sector to be an employer of choice and to recruit and retain top talent, it is important that the Maternity Leave Act is amended to compete with current parental leave trends in the private sector. This submission has focused on the evidence for matching private sector leading practice measures. These measures include: making parental leave accessible to all parents or carers regardless of their sex, gender or carer status, removing any service length eligibility requirements, increasing the amount of leave available, offering employees more control over how and when they take parental leave and continuing superannuation contributions for employees on leave. The review of the Maternity Leave Act is a welcome opportunity to promote gender equality within the public sector and to send a strong message of support to federal public sector employees who are parents or carers of young children. Furthermore, a progressive parental leave policy will position the Australian Public Sector as an innovative employer.

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<sup>1</sup> Australian Public Service Commission (2021), Review of the Maternity Leave (Commonwealth Employees) Act 1973 (website), viewed 28 January 2022, available: <https://www.apsc.gov.au/about-us/who-we-are/media-releases/review-maternity-leave-commonwealth-employees-act-1973-commences>

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