
1 Objectives of statutory paid parental leave

Key points

- Participants proposed a range of objectives for mandated paid parental leave including: maternal and child health and welfare (including the rights of children and their place in society); the balance between paid work and family life; workforce/workplace attachment; gender equity; financial assistance; and population fertility.
- There are tensions between some objectives and tradeoffs will be necessary. For example:
 - Returning to paid employment too soon after a child's birth may adversely affect child and maternal welfare, but returning too late may undermine workforce attachment.
 - Funding arrangements inevitably provide incentives for some people and disincentives for others.
- Current arrangements already provide many parents with the right to return to a job, and financial assistance is provided by the baby bonus and the wider social welfare system. While together, existing programs provide a de facto paid parental leave scheme, a differently designed mandated paid parental leave scheme is likely to produce bigger individual and community-wide benefits.
- Objectives that appear most likely to support a case for paid parental leave are:
 - enhancing maternal and child health and development
 - facilitating workforce participation by offsetting the disincentives to paid work generated by social welfare and taxation arrangements
 - promoting gender equity and work/family balance.
- Objectives that have relatively weak rationales for paid parental leave are:
 - financial assistance — there are better ways to provide financial assistance than through paid parental leave, but it helps create the incentive to take leave by reducing financial pressures on liquidity-constrained families
 - increasing population fertility.
- Key design features include funding, length of paid leave, payment levels and eligibility. Specification of these will depend on the agreed objectives, evidence about the likely net impacts, and the tradeoffs that need to be made among them.
 - Scheme design should focus on obtaining benefits to the community that are additional to those available under current arrangements.
 - The efficacy of a number of design features will depend on outside influences such as the availability, quality, cost and regulation of child care centres and the availability and nature of family-friendly workplaces.
- The vast majority of participants consider that a mandated paid parental leave should be implemented, but this view is by no means universal.

1.1 Introduction

There have been enduring calls for government-mandated paid parental leave — particularly maternity leave — for many years in Australia, reflecting the fact that around 50 per cent of women in the paid workforce do not currently have access to any paid scheme. In contrast, a legislated right to 52 weeks unpaid maternity leave, which effectively gives a woman the right to return to her job, has been available since 1979 (and was extended to paternity leave in 1990-91). All mothers who are employees prior to childbirth are covered by this legislation — over 80 per cent of employee mothers would meet the eligibility requirements. Moreover, under the National Employment Standards, intended to be introduced in January 2010, employees will have the right to request additional unpaid parental leave of up to 12 months, giving a total maximum of two years unpaid leave. The number of people affected by the availability and nature of any parental leave arrangements is substantial, given that 285 000 children were born in Australia in 2007 (an historical record).

Many stakeholders have observed that, with the United States, Australia is conspicuous among developed countries in not offering a statutory paid parental leave scheme. While most provide paid leave of around three to six months, some European countries, such as Norway and Sweden provide paid leave of around a year at near replacement wages. Stakeholders have noted that even poor developing countries have statutory schemes (for example, the Congo, Afghanistan, Somalia and Zimbabwe), though in reality these typically provide very limited coverage due to their small formal labour markets.

In part, Australia's near unique status is a semantic distinction. The 'baby bonus' of \$5000 provides most mothers with the equivalent of parental leave of 14 weeks (the funding duration sought by many participants) at \$357 (untaxed) per week, or about two-thirds of the adult minimum weekly full-time wage. The baby bonus is buttressed by other family payments, so that overall, family subsidies in Australia are generous by OECD standards (AIFS, sub. 138).

The calls for paid parental leave take place at a time when women have an increasing role as carers, workers and sources of family income, where there have been changes in male roles in caring for and rearing children, and where more employers are offering parental leave programs of their own:

- In the key reproductive years of 25 to 34 years, female workforce participation rates have increased from 51 to 74 per cent over the past 30 years.
- There has been a significant closing of the gap in workforce participation rates of married and unmarried women, and of married men and women.

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- The proportion of men engaged in home duties and caring roles has increased significantly, albeit from a very small base.
 - Households are more dependent on dual incomes to meet mortgage costs.
 - There have been changes in community attitudes about appropriate gender roles.

Accordingly, the issue of paid parental leave has reached contemporary prominence because the cultural and economic environment has changed markedly in Australia over the last few decades, with less clearly-defined gender roles and different attitudes about the separation of paid work and family. Further, there are several international agreements that are relevant to this policy area (box 1.1).

1.2 What has the Commission been asked to do?

It is against this backdrop that the Australian Government has asked the Commission to assess the economic and social costs and benefits of paid maternity, paternity and parental leave ('paid parental leave'). The terms of reference require the Commission to explore the current extent of paid parental leave provided by employers in Australia, but most importantly, to identify models of paid parental leave that could be used in Australia. The Commission is required to assess those models for their potential impact on:

- the financial and regulatory costs and benefits for small and medium-sized businesses
- the employment of women, their workforce participation and earnings and the workforce participation of both parents more generally
- the paid work/family preferences of both parents in the first two years after the child's birth
- the post-birth health of the mother
- the development of young children, including the particular development needs of newborns in their first two years
- relieving the financial pressures on families.

The Commission has also been asked to assess the cost-effectiveness of these models, their interaction with the social security and family assistance systems, and their impacts and applicability across the full range of employment forms (including, for example, self-employed people, farmers and shift workers). It has also been asked to assess the efficiency and effectiveness of Government policies that would facilitate the provision and take-up of these models.

Box 1.1 International agreements relevant to paid parental leave

The Human Rights and Equal Opportunity Commission (HREOC — subsequently renamed the Australian Human Rights Commission) — drew attention to a number of international instruments that are relevant to this inquiry. These include:

- the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)
- the *Convention Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities* (ILO Convention 156)
- the *Convention Concerning Discrimination in Respect of Employment and Occupation* (ILO Convention 111)
- the *Convention Concerning Vocational Rehabilitation and Employment of Disabled Persons* (ILO Convention 159)
- the *International Covenant on Civil and Political Rights*
- the *International Covenant on Economic, Social and Cultural Rights*
- the *Convention on Rights of the Child*
- the *Maternity Protection Convention 2000* (ILO Convention 183)
- the *Maternity Protection Recommendation* (ILO Recommendation 191).

Australia has also signed, but not ratified, the *Convention on the Rights of Persons with Disabilities*.

Many of these international policy instruments are non-binding. The two binding agreements relevant to paid parental leave are CEDAW and ILO Convention 183.

CEDAW is a key international instrument that, inter alia, provides that women should not be discriminated against on the grounds of maternity and prohibits dismissal on the grounds of pregnancy. But while Australia ratified CEDAW in 1983, it did so with a reservation against Article 11.2, which deals with the introduction of 'maternity leave with pay or with comparable social benefits'. Nevertheless, HREOC advised that:

CEDAW places a general international obligation on the Australian Government to '... take all appropriate measures to eliminate discrimination against women in the field of employment' in order to ensure, inter alia, the 'right to work as an inalienable right of all human beings.' (sub. 128, p. 7)

While Australia voted in favour of adoption of ILO Convention 183, which provides for a right to 12 weeks paid maternity leave, it has yet to take steps towards ratifying it.

HREOC has advocated a national scheme of paid parental leave in successive reports (HREOC 1999, 2000 and 2007).

Source: HREOC (sub. 128, pp. 4–12) and Australian Human Rights Commission (sub. DR377).

1.3 What objectives might a mandatory scheme seek to achieve?

In announcing this inquiry, the Government said that it intended:

... to explore ways to make it as easy as possible for working mums to balance their employment with the important job of raising a new generation of Australians. (Swan, Gillard and Macklin 2008)

About three-quarters of women in the paid workforce are entitled to unpaid parental leave, and an increasing number of employers now make paid parental leave available to their employees, subject to varying eligibility requirements. But about half of all women in the paid workforce do not have access to any paid parental leave, and calls for a government-mandated paid parental leave scheme for Australia are intended, in part, to fill this gap.

A key starting point must be to specify the objectives that such a scheme should meet. During the course of this inquiry, participants put forward a range of objectives encompassing:

- *the health of the mother*: time for the mother to recover physically from the birth, establish feeding routines and bond with the child
- *the health and development of the child*: to encourage better health and developmental outcomes for the child
- *the rights of children and their place in society*
- *the mother's longer-term attachment to the workplace / workforce* (including, for example, her consequent ability to better fund her own retirement and facilitating her 'right' to work)
- *the opportunity for fathers* to share in child care and family responsibilities
- *financial assistance* for the mother and family around the time of the birth
- *greater gender equity* in the home and in the workplace (in part, by recognising the social and economic importance of the bearing and raising of children)
- *promoting balance between paid work and family life*
- *enhancing the fertility* of the population.

There was general agreement among participants that these objectives provided an appropriate basis for a mandated paid parental leave scheme. Many referred to some or all of these objectives. For example, HREOC said that a national paid maternity leave scheme was required:

... to ensure the health and wellbeing of mothers and babies, to address the workplace disadvantage that women experience as the result of maternity, and to contribute to

women's ability to participate on equal terms with men in all aspects of life. (sub. 128, rec. 1)

The Brotherhood of St Laurence said that there is a need:

... to recognise the value of care, and its important impact on children's development. It is also important to promote female workforce participation, because this has positive impacts on the individual, families and on society. (sub. 92, p. 1)

Queensland Council of Unions said that women need time to recover from childbirth, adjust to motherhood and establish breastfeeding, 'one of the most important contributions to the health and development of babies'. But where women are forced to return to work before they and their baby are ready, this can lead to 'enormous financial and emotional strain ... at a time that is incredibly challenging' (trans., p. 809).

The CFMEU sought a model of paid parental leave that adequately supports women, together with a component of paid paternity leave to support families and better reflect 'the new reality of parenting', particularly for industries that are dominated by male workers. It saw paid parental leave as providing encouragement to greater female labour force participation, and noted that:

... policy focused on allowing parents to spend more time with their children in the early stages of life strongly correlates with positive outcomes for future learning and the development of children ... Further, ... a policy focus on provision of paid leave to fathers will go some way to addressing gender imbalances ... (sub. 206, p. 2)

Commerce Queensland saw the mother's longer-term attachment to the workforce and maintenance of the parents' work-related skills as key issues. To help achieve these goals, it proposed that parents of a newborn baby be provided with supplementary family income linked to their absence from the workforce (sub. 172, pp. 4, 8 and trans., p. 798).

Some saw paid parental leave in terms of 'normalising' society's view of the experience of women workers taking a period of absence to have children. In this vein, Prof Barbara Pocock suggested that the objectives of a mandated paid parental leave scheme should be:

... equality of opportunity for women, a physical recovery time for mothers, opportunities to bring about the best outcomes for babies and to increase the participation rate of those who choose to return to work early. ... A paid maternity leave scheme is about not disturbing the employment trajectory of women. (trans., p. 717)

Prof Joshua Gans argued that the goal of parental leave should be to provide the ‘ability and incentive’ for parents to move between life at work and life at home in ‘a frictionless manner’, as:

... following the birth of a child, one or both parents would like to be able to ‘pause’ their work life, take time off to spend with the baby ... and then to ‘resume’ their work life where they left off prior to the birth. (sub. 24, p. 1)

While participants commonly espoused the same broad objectives, some placed particular emphasis on one or two objectives that reflected their roles and specific interests (box 1.2). For example, the Equal Opportunity for Women in the Workplace Agency, whose role is to increase women’s workforce participation and facilitate their long-term attachment to the workforce, argued that:

... significant weight should be placed on workplace attachment as an objective, because improved attachment will improve gender equity by increasing women’s total workforce participation. (sub. 97, p. 1)

The NSW Commission for Children and Young People and National Investment for the Early Years (NIFTeY) focused on the health and development benefits that infants receive from an extended period of time with their mothers in the early years. They said that paid leave for the mother or other primary caregiver would have ‘significant immediate as well as long term benefits for children’s wellbeing, their families and society’ (sub. 234, p. 1). They added that:

One of the greatest risks to children’s health and development is poverty ... Strategies that allow women to maintain their connection to the workforce, such as paid parental leave, can help to address poverty. (sub. 234, p. 2)

The Western Australian Council of Social Service proposed universal paid maternity leave as a minimum safety net, to help alleviate ‘the hardship faced by many women who seek to maintain a work-life balance’ (sub. 156, p. 1).

The Public Interest Advocacy Centre said that the key objectives should be:

... to protect human rights, to promote gender equity and to achieve optimal health outcomes for mothers and children. (sub. 226, p. 5)

As in Australia, New Zealand’s different interest groups placed greater or lesser emphasis on particular objectives, while drawing from the same basic list. The NZ Department of Labour listed the following as the objectives of that country’s paid parental leave program:

- Gender equity within the labour market with increased female labour force retention and the opportunity to return to paid work without disadvantage to position or pay.

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- Gender equity within families with fathers sharing leave and caring responsibilities.
 - Improved health outcomes for both mother and child with a mother being able to recover from childbirth, bond with a new baby and return to work without negative consequences to her health and that of her child.
 - Income stability for families to provide a period of financial security during the leave period (NZ Department of Labour 2007, p. 8).

The NZ Families Commission cited exactly the same goals but in a different order — emphasising the health of the mother and child first, income stability second, and gender equity objectives third (NZ Families Commission 2007, pp. 7–8). While this ordering simply reflects the different focus and responsibilities of the two agencies, the design of a scheme can create or reduce tensions between those objectives.

Many participants considered that lessons could be drawn from paid parental leave schemes in other countries. A common response was to note the generosity of some overseas schemes and advocate the same for Australia. As noted elsewhere in this report, paid parental leave schemes in other countries exhibit considerable variation in duration (ranging from 14 to 420 weeks), in payment levels (from a capped amount to full income replacement), eligibility requirements and funding arrangements. The experiences of other countries may well provide useful lessons, particularly if good quality evaluations of their impacts have been undertaken. However, translation to Australia of lessons from other countries is not always straightforward because of major differences in the operation of the underlying social insurance and/or social welfare systems.

Underpinning many specific proposals for paid parental leave put to this inquiry were broader perspectives on how the issue should be approached.

- Some spoke of the social value of children and parenthood, and of children as citizens, taxpayers and the workforce of the future.
- Several said that the benefits (and costs) associated with children and child development, while essentially private matters for families, nevertheless ‘spill over’ to the rest of society, thereby justifying a mandated paid parental leave scheme.
- Others argued that mandated parental leave would facilitate a better balance between paid work and family life by increasing community acceptance that people in the paid workforce require time away from the workplace to have and care for children.
- Yet others wanted paid parental leave perceived primarily as an equity issue, a gender issue or a ‘rights’ issue.

Box 1.2 Some participants' views on the case for mandated paid parental leave

Some contemplating parenthood expressed concern about how they would cope:

I'm 30 years old and would love to start a family in the next couple of years but at present, without paid maternity leave, having a child any time soon is financially impossible for us. (personal response)

HREOC said that paid parental leave would promote gender equality:

... by fostering shared responsibility between men and women for the care of children (sub. 128, p. 6).

Emily's List said that it would help:

... to address women's workplace disadvantage and decrease the level of sex and maternity discrimination that women continue to experience in the workplace. (sub. 65, p. 1)

The Work + Family Policy Roundtable said:

Incongruities between the public and private worlds of work and family are an obstacle to gender equality, family formation and parents' capacity to reconcile paid work with family responsibilities. (sub. 220, p. 4)

Rachel Cowling said:

... surely the fundamental objective should be to support health and wellbeing in families, which in turn supports healthy child development. Feeling a level of control over one's life is really critical to a sense of wellbeing ... (sub. 39, p. 1)

Catholic Social Services Australia said that:

... there's a danger of us talking about how families might adjust to workforce participation rather than ... talking about how workforce might adjust to family requirements. (trans., p. 837)

The Public Health Association of Australia highlighted the wellbeing benefits that arise when society recognises the dual roles of mother and worker. In its view:

... when women are recognised both as mothers and as workers then there is less likely to be as broad a prevalence of depression. That goes specifically to sickness but it's also about wellness, it's about feeling good about themselves and being able to manage and being able to manage their children in a positive way in a positive environment in a positive community. (trans., p. 23)

Family Day Care said:

I think that a message should be sent by the Australian community to fathers that they are a very important part of a young child's life. (trans., p. 829)

The Victorian Division Women's CPA Network argued for income support for parents:

A mother should not be penalised for having a child by then having her career put on hold. This places financial strain on the family unit and pressure for the mother to return to work earlier than she would like so her career and financial contribution to the family unit can be sustained. (sub. 150, p. 1)

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Box 1.2 (continued)

One participant noted that offering paid maternity leave:

... will help create a cultural shift by placing value on the unpaid work that women do as mothers. (personal response)

Working Women's Centre South Australia, Northern Territory Working Women's Centre and Queensland Working Women's Service said:

The objectives ought to be to provide women with appropriate time away from their workplace to rest and prepare for the birth or adoption of their baby, to give birth and recover, to bond with their child and establish a care routine including the option of breastfeeding. This time should be free from anxiety about income and also keep the woman employee engaged with her workplace. A paid parental scheme is important for the ongoing health and wellbeing of the child. (sub. 70, p. 2)

NIFTeY said that the primary objective of paid parental leave should be:

... support for the needs of babies, determined by sound evidence, rather than opinion or lobby groups. (sub. 55, p. 9)

Olivia Ball argued that:

Paid maternity leave is a human right. It remains for the Australian Government to fulfil this right for all women within its jurisdiction. ... Given financial support, many women would want to stay home longer with their babies and would breastfeed longer too. Breastfeeding itself has a strong basis in human rights (e.g., rights to life, health and food) (sub. 52, p. 1)

For example, many participants placed the issue of paid parental leave in the context of human rights. Claimed rights included:

- that babies and young children deserve a good start in life
- that parents deserve support for having a child
- that parents in paid work deserve some balance between home and employment
- that taxpayers without children deserve not to pay for the needs of other parents
- that businesses deserve a fair opportunity to be viable.

Dealing with the issue in terms of rights is particularly difficult, as sincerely and strongly held views expressed in some submissions may be contradicted by sincerely and strongly held views expressed in other submissions. In many cases the conflict came down to implied tradeoffs between different rights that were accepted as legitimate. Such complexities and conflicting viewpoints make a clear direction for policy difficult to ascertain.

Often related to the question of rights are concepts such as 'equity' and 'paid work-family balance'. These are social issues whose relevance for policy depends on evolving community norms and ethics and on careful definition of what, for

example, ‘equity’ means (particularly to people in different financial, family and workplace circumstances). Submissions variously advocated greater equity between men and women, between working and non-working mothers, between mothers who are eligible for paid parental leave and those who are not, and between mothers and other women in the workplace. These matters are discussed in chapter 6.

Public views on mandating paid parental leave are to some extent polarised. As an indication, the Commission received over 400 submissions (appendix A), including over 160 received after the release of the draft report, and roughly 500 personal feedback emails. Overwhelmingly, these were in favour of some form of paid parental leave, as were virtually all attendees at the public hearings. (Employer support was conditional upon it being wholly taxpayer funded.) A common view expressed by individuals was that a period of paid parental leave would have reduced the financial pressures on them to return to work earlier than was preferred, the baby bonus notwithstanding. The consensus in favour of paid parental leave is not absolute, however. Many comments left on media websites and internet blogs were opposed, arguing that having a child is a private decision that entails costs that are appropriately financed by the parents, not by taxpayers or by a levy on wages. A key question for this inquiry is to examine the private benefits and costs, and the public or community-wide benefits and costs, that might arise from a mandated paid parental leave scheme.

Many participants see paid parental leave in broader symbolic or signalling terms — that implementation of a mandatory scheme would demonstrate community acceptance, as manifested through the political process, of the underlying rights being advocated. While difficult to capture in an investigation of benefits and costs, these symbolic issues have value and need to be taken into account.

Current programs help address some objectives

Some of the objectives discussed above are at least partly met by current government policies and programs and employer-provided paid parental leave arrangements. The government-mandated right to 52 weeks of unpaid parental leave facilitates workforce attachment. It effectively provides many employees with a right of return to the job they held before the birth of a child. In addition, the financial stresses of having a baby are reduced by the range of cash benefits that governments make to parents on the birth of a child and thereafter.

At the time of the birth of a baby, or the adoption of a child under 16 years of age,¹ the \$5000 baby bonus is payable. It is non-taxable, and paid in 13 fortnightly

¹ Increased from two years of age before 1 January 2009.

instalments of \$384. The baby bonus is an income-tested payment made to families whose estimated combined income is \$75,000 or less in the 6 months following the birth of a child or the child's entry into care.

Taken together, the baby bonus and the guarantee of a return to the same or similar job provides *de facto* paid parental leave for many parents (AIFS, sub. 138, p. 4). This view is supported by participants who noted, in their responses to the Personal Feedback Paper, that the baby bonus had allowed them to stay at home longer than otherwise after the birth of a child. One question for this inquiry is the extent to which a mandated paid parental leave scheme could secure better outcomes than are provided by these arrangements.

Many parents are also eligible for ongoing financial support by way of family tax benefits A and B, the parenting payment and certain payments to cover the cost of child care. (These payments are ongoing and far outweigh the baby bonus in terms of the ultimate value to parents/families.) In total, payments to parents on the birth of a child and thereafter are high by international standards. Moreover, the structure of assistance is also among the most progressive in the OECD in the extent to which assistance is directed to low income families with children (Whiteford 2008). The ability of any design feature of a paid parental leave scheme to achieve particular objectives depends on how the scheme interacts with existing welfare arrangements.

In addition to government support, an increasing number of employers provide their employees with paid parental leave. Employer-provided parental leave is available to around 50 per cent of working women (and some large employers of women have only recently commenced providing paid maternity or parental leave, so may not be included in the data reported here). One issue for this report is the likely effect of a government-mandated scheme on the nature and extent of benefits that employers would be willing to offer employees in future. These matters are discussed in chapter 7.

1.4 Some rationales are stronger than others

Whether a particular objective is valid depends on its underlying rationale — the reasons for seeking to achieve that objective. It depends on good evidence that paid parental leave can help further that objective. It also depends on evidence that meeting the objective would lead to community benefits that would not otherwise be achievable.

Of the objectives listed in the previous section, those that, singly or together, appear more likely to support a case for paid parental leave, whether by addressing inherent market failures or difficulties in realising social norms, are:

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- enhancing maternal and child health and development
 - facilitating workforce participation by offsetting the disincentives to paid work generated by social welfare and taxation arrangements
 - promoting gender equity and work/family balance.

Close analysis of each, including their rationales, the strength of evidence as to their impacts, and the implications for the design of any paid parental leave scheme, are discussed in chapters 4, 5 and 6. However, the rationales for two commonly-stated objectives are not strong.

Financial assistance

Many participants indicated that their inability to take fuller advantage of the existing unpaid parental leave rules was due to the difficulties of managing family life on reduced household income for the period of the mother's absence. While the experiences of individual women vary enormously, many personal responses to the inquiry expressed concern about having to return to employment earlier than they would have preferred, or than may have been optimal on health and welfare grounds, because of financial pressures. Early return to work for financial reasons is even more of an issue where the mother is the main or sole income earner. Some who were contemplating having a family in the near future expressed concern about how they would cope financially.

Were increased financial assistance by itself to be a key objective, it could be addressed effectively by increasing one or more family payments. But the design of a paid parental leave scheme needs to include an element of financial assistance that encourages or facilitates a period of absence from the workforce, reducing the financial pressure on some mothers to return to work early, to help achieve better health and welfare outcomes for mothers and children. In this way, it has a different role to family payments. Financial assistance is better seen as a design feature that creates an incentive to take parental leave, rather than an objective in itself.

Enhancing the fertility of the population

Some participants saw paid parental leave as having a beneficial effect on population fertility, citing public discussion in recent years about Australia's birthrate. However, recent research by the Commission (box 1.3) shows that Australia's fertility level has been rising over the past few years and is now relatively high compared with most OECD countries. It also found that, while universal paid parental leave might provide a small stimulus to fertility, its capacity

to make a significant further difference to fertility levels in a cost-effective manner is small. For such reasons, seeking to increase fertility is unlikely to be a sound objective for a paid parental leave scheme.

Moreover, adopting increasing fertility as an objective would also require some difficult decisions to be made about how that objective might be pursued. For example, one approach to explicitly target fertility might be to pay parental leave at a lower rate for the first child and at a higher rate for second and later children. Another might be to target benefits on those who currently have few or no children. A third might be to target benefits on those who, irrespective of whether they already have children, are judged more likely to respond to a higher payment. There are troubling implications in each case that are likely to rule out implementing schemes with these design features.

Box 1.3 Key findings from the Commission’s recent work on fertility

Births in Australia are at an historical high — around 285 000 babies born in 2007 — with an estimated total fertility rate of 1.93 babies per woman, the highest since the early 1980s. Fertility rates have been generally rising for the last six years.

Much of the recent increase is likely to reflect the fact that over the last few decades, younger women postponed childbearing and many are now having these postponed babies. This has shown up as higher fertility rates for older women.

Some of the increase is also likely to be due to an increase in the number of babies women will ultimately have over their lifetimes.

- For example, today’s young women say they are expecting to have more babies over their lifetime than those five years ago.

Rising fertility reflects several factors:

- Buoyant economic conditions and greater access to part-time jobs have reduced the financial risks associated with childbearing and lowered the costs associated with exiting and re-entering the labour market.
- With more flexible work arrangements, women today are more able to combine participation in the labour force with childrearing roles.
- A recent increase in the generosity of family benefits is also likely to have played a part, although probably only a modest one.

Australia appears to be in a ‘safe zone’ of fertility, despite fertility levels being below replacement levels. There is no fertility crisis.

Source: Lattimore and Pobke (2008, p. xii).

To the extent that paid leave encourages women to have children earlier, there could be some health and development benefits for the parent and the child. For example,

a range of physical and mental disorders in children (rates of schizophrenia, for example) are strongly related to the age of the mother and the father. These caveats aside, the Commission does not see increasing fertility as an appropriate objective for a paid parental leave scheme.

1.5 Some issues for scheme design

From the viewpoint of the mother, a mandated period of paid parental leave would be clearly beneficial. It would allow her to take a longer period of absence from her job than she would otherwise find affordable, or to enjoy additional financial assistance over the same period of absence that she was intending to take anyway. These are private benefits, the costs of which would come from others in the community, via taxation revenues (if government-funded) or by way of levies on employers (and the subsequent costs that such funding arrangements generate).

From the viewpoint of the community that pays for paid parental leave, the focus should be on broader benefits that can be generated over and above those that arise from the private decisions of people. So, for example, if some women typically return to work earlier than the scientific evidence suggests would be beneficial for the child's health and development needs, a program that encouraged those women to take a longer period of absence would, on average, generate a public benefit.

Program design therefore focuses on seeking to achieve benefits that are additional to those that would arise through private decisions (sometimes termed 'additionality'). Such public benefits can provide the rationale for a government-mandated paid parental leave scheme.

To achieve particular public benefits, there are many combinations of duration, eligibility, level of payment and other features that could be proposed.

Differences in scheme design can arise from differences in the emphasis given to particular objectives. For example, in very broad terms, seeking better health outcomes for the mother and child implies a focus on the length of time away from work, while workforce attachment implies a focus on the rules for obtaining leave (and ensuring that social welfare does not create incentives to stay out of the workforce). More specifically, the objective of ensuring a sufficient period of time for a mother to recuperate after the birth could be addressed by establishing a period of leave exclusively for use by the mother. Alternatively, the objective of encouraging increased involvement of fathers in the early periods of a child's life could be facilitated by providing greater flexibility for parents to share leave provisions or even reserving some leave for the exclusive use of the father.

A particular concern is the scope for tension between the objectives proposed. For example, an extended period at home to aid the recovery of the mother and the development and wellbeing of the child may be somewhat at odds with maintaining the mother's attachment to the workforce, where a long absence may see her work skills decline or become dated, perhaps creating barriers to her return to work.

Similarly, quarantining a parental leave entitlement for the father/partner, rather than allowing couples to decide for themselves who takes the leave, may help reduce social attitudes antithetical to greater male caring roles, but it reduces the options available to the couple.

Many participants were aware of such tensions. For example, the ACTU noted that:

[there are] two social goods, ... the benefit to the economy and to households associated with increased maternal participation in the paid workforce and ... the child and maternal health benefits associated with delayed return to work or getting the timing of the return to work right. They're almost competing policy outcomes, but that's what you're looking for. (trans., p. 874)

Another consideration is that the introduction of any policy can result in unexpected and unintended consequences. Reasons for this include the interaction of different policies, but also because people have different preferences and personal circumstances and respond differently. The risk of unintended consequences typically increases as the number of policy objectives increase. This risk can be exacerbated if those objectives are potentially inconsistent.

Nevertheless, choices have to be made. These will be guided by the objectives of the scheme, evidence about the likely net impacts of different approaches, and the need to avoid unintended consequences. There will also need to be a tradeoff between complexity and simplicity. Some of the key choices to be made are listed in tables 1.1 and 1.2.

Approaches to scheme design

The process of designing a paid parental leave scheme should follow a coherent set of steps that have been widely explored in many other social, economic and regulatory contexts. The methodology is robust and well-tested. Its starting point is that the scheme should be designed to maximise the net benefits to the community that would not otherwise be forthcoming. This goal will be facilitated by incorporating design features that encourage desirable behavioural change, reduce the risk of unintended impacts, ensure cost-effective delivery (for example, through minimising administrative and compliance burdens) and, in time, require robust evaluation of outcomes followed by policy redesign, if appropriate.

Table 1.1 Objectives and some implications for scheme design

<i>Policy objective</i>	<i>Key issues</i>	<i>Possible implications for scheme design</i>
Maternal and child health	<ul style="list-style-type: none"> time needed away from the workplace by the birth mother for recovery time needed by the mother or other primary carer to establish breastfeeding and infant care regimes to obtain optimal health and development outcomes for the child 	<ul style="list-style-type: none"> the length of time away from the workplace to enable maternal recovery the length of time away from the workplace to enable optimal health and development outcomes for the child parents may not be aware of these health and development benefits income constraints may lead to earlier return to work than desirable
Gender equity / work-family balance issues	<ul style="list-style-type: none"> greater acceptance by workplaces and the community of women's dual roles as mothers and employees roles of mothers and fathers in the home differing family types (same sex couples etc) 	<ul style="list-style-type: none"> direct support for the mother signalling the value of being mothers and employees support for the partner may facilitate greater sharing of roles a quarantined period of leave for the partner or parental leave that the partner can share
Workforce attachment	<ul style="list-style-type: none"> benefits to workplace of retention of employees cost of time out of the workplace for parents (effect on career prospects, job quality and retirement benefits) problems faced by employers with employees taking leave increasing patterns of non-standard work affecting eligibility criteria 	<ul style="list-style-type: none"> eligibility rules for unpaid leave does not cover a (possibly growing) group in the workforce increased absence involves additional costs to employer and may degrade employees' skills some lack of knowledge among employees about currently available entitlements many mothers prefer part-time work on return rules for obtaining leave, taking account of the needs of employers

Source: Submissions, transcripts and health and welfare literature.

The importance of scheme design was explicitly recognised in a number of submissions. Jane O'Sullivan, for example, raised concerns about the unintended impacts that an inappropriately designed parental leave policy might entail:

I am strongly in favour of universal maternity leave provisions. However ... the motivation for such provisions needs to be made explicit, and the likely non-target impacts carefully analysed, before selecting a system that provides greatest social benefit for the least perverse result. (sub. 161, p. 1)

Table 1.2 Key choices to be made in scheme design

<i>Duration</i>	<i>Financing</i>	<i>Generosity</i>	<i>Eligibility</i>
<p>Quarantined leave for mother or father? (eg use it or lose it for men)</p> <p>Mandatory periods of leave? (eg antenatal period, maternal recovery?)</p> <p>Leave in blocks or flexible?</p> <p>Antenatal period</p> <ul style="list-style-type: none"> • 2 to 4 weeks? <p>Postnatal period:</p> <ul style="list-style-type: none"> • 12 weeks (Singapore, New Zealand) • 20 to 24 weeks (EU & Nordic) • Longer (Nordic) <p>Variations in length or starting point by type of family?</p> <ul style="list-style-type: none"> • disability • adoptive parents • stillborn children • surrogate mothers <p>Transition issues (eg should longer periods be slowly introduced?)</p>	<p>Government (state/federal), that is, <i>Taxpayers:</i></p> <ul style="list-style-type: none"> • general revenue • payroll tax • unspecified • personal family accounts rolling in family payments <p><i>Employees:</i></p> <ul style="list-style-type: none"> • HECS style loan • insurance scheme • unpaid leave • superannuation access <p><i>Employers:</i></p> <ul style="list-style-type: none"> • pooled or non-pooled • ongoing entitlements (super and/or leave) <p><i>Mixed:</i> Co-funding by any mix of:</p> <ul style="list-style-type: none"> • Employer • Govt. base contribution or tax credit to business • Employee <p>Differential treatment of:</p> <ul style="list-style-type: none"> • small businesses • low income versus high income employees for employee-funded schemes <p>Administrative arrangements:</p> <ul style="list-style-type: none"> • paid directly from govt • paid by firm, regardless of financing • government subsidies to firms for administrative/cash flow costs • integration with existing arrangements 	<p>Lower than minimum wage</p> <p>Minimum wage</p> <p>Replacement wage:</p> <ul style="list-style-type: none"> • with or without wage caps <p>Varied by:</p> <ul style="list-style-type: none"> • income or assets of worker/household (targeting) • hours worked • number of children already had • tenure in workforce or workplace <p>Inclusion of entitlements (super/leave)?</p> <p>Treatment of payment for tax purposes/ family income</p> <p>Contingency:</p> <ul style="list-style-type: none"> • only paid for weeks taken (early return means less money) <p>Control:</p> <ul style="list-style-type: none"> • paid to woman or not specified? <p>Payment structures:</p> <ul style="list-style-type: none"> • fixed instalments • rising instalments over time • two part payment (instalments and lump sum on return to work) <p>Transition issues:</p> <ul style="list-style-type: none"> • generosity rising over time? • government contribution falling as share of total fixed payment? 	<p>Those eligible for current unpaid leave</p> <p>Broader groups:</p> <ul style="list-style-type: none"> • casuals • fixed term • self-employed • unpaid family workers <p>Family circumstances:</p> <ul style="list-style-type: none"> • mothers • fathers • single parents • adoptive parents • same sex partner • grandparents/aunties/others who are prime carers <p>Length of employment:</p> <ul style="list-style-type: none"> • in the workforce • with a particular employer • since last use of parental leave <p>Treatment of those outside the workforce</p>

Similarly, the Australian Industry Group said that:

... a paid maternity leave scheme which is not properly designed risks an adverse reaction from employers which would undermine the effectiveness of the scheme. (sub. 182, p. 3)

Professor Joshua Gans, on the other hand, noted the range of undesirable incentives that different proposals would establish, observing ‘how hard it is to enact a system of paid parental leave’ (sub. 24, p. 5).

Designing a model that encourages behavioural change

Effective programs should be designed to achieve objectives that are based on sound rationales, underpinned by good empirical evidence. As noted, the ultimate objective of mandated paid parental leave must be to encourage socially valuable outcomes that would not have occurred without the scheme (that is, additional benefits). Such benefits also need to be balanced against other uses of the funds involved (by individuals, employers and/or government) and the distortionary cost associated with raising any additional government revenues.

Designing a scheme to generate additional benefits and not simply reward people for what they would have done anyway suggests that providing assistance to parents who have the financial means and propensity to act voluntarily is unlikely to lead to a net improvement in community welfare. However, although there are various scheme design tools that could help achieve this goal, they all have limitations. For example, while income thresholds can limit support to those most likely to change their behaviour in response to the scheme, this can create perverse workforce participation incentives as people reorganise their lives just to qualify for the available support. The design and implementation of any specific proposal needs to take account of such impacts.

Treating people equitably

In principle, program design should pay close attention to both the horizontal and vertical dimensions of equity (or fairness). Horizontal equity involves treating individuals or families in similar economic circumstances in a similar manner. Vertical equity involves treating individuals or families with different financial means according to their capacity to provide for themselves. The principle of vertical equity underpins Australia’s system of income taxation and much (but not all) of its social welfare arrangements, whereby many welfare benefits are targeted towards low income groups. Progressive welfare systems, for example, provide a proportionately higher rate of benefit payment at lower income levels.

In practice, equity is difficult to define and achieve when designing a paid parental leave scheme. It is inevitable that people will be treated differently for different reasons. What will be viewed as equitable by some will not be seen as such by others.

- Paying paid parental leave to eligible women in the workforce may be seen as equitable by those women but inequitable by those not in the workforce (see chapter 6 for a fuller discussion).
- A government-funded scheme that pays the minimum wage may be considered inequitable compared to the replacement wages paid under employer-provided schemes.
- But paying replacement wages under a government-mandated system would be seen as inequitable by recipients on low incomes and by those who have to foot the bill.
- Eligibility rules — who is in and who is out — provide a further dimension.

There is no neat way to reconcile all of these ‘inequities’. Tradeoffs need to be made.

Minimising risks

Family benefit payments are spread across a large number of programs with differing eligibility criteria that aim to meet a range of (sometimes conflicting) objectives. Some of these programs are delivered through the taxation system (or interact with it through taper rates). An effective paid parental leave scheme needs to take account of the relationships between different programs and the tax system in order to ensure the combined level of support provided is consistent, as far as practicable, with the overarching objectives of family assistance policies and fiscal policy. The potential for, and impact of ‘double-dipping’, including from both public and private sector sources, and adverse incentives needs to be closely scrutinised.

This need for a broad perspective on available support arrangements was acknowledged by a number of participants in this inquiry. GM Holden, for example, commented that while it assessed that the benefits of its own parental leave scheme substantially outweighed the costs for itself, the Government’s prospective role in this area required a broader review of all family assistance arrangements, rather than considering paid parental leave in isolation:

These support mechanisms are both financial (eg. baby bonus, child care rebate schemes), and non-financial (including maternal and child health centres, child care and early learning development, including kindergarten education). Taking a holistic view

of all of these mechanisms to support parents and children in our society will assist in developing an effective Government response ... (sub. 222, p. 11)

Similarly, Catholic Services Australia and the Australian Catholic Council for Employment Relations said that a view on the suitability of existing overseas models of paid parental leave to Australia cannot be taken in isolation and requires a ‘holistic evaluation’ that includes the role of the tax system and other transfer payments:

It is not feasible to expect an overseas model might be implemented directly into the Australian context without consideration of differences in the underlying taxation, transfer payment infrastructures and labour market conditions existing in each scheme. In particular, it is inappropriate in the Australian context to consider employee contributions such as those which in overseas models are premised on an entirely different social security model — one resting on employee contributions to social insurance. (sub. 225, p. 14)

In particular, interactions between different benefit programs can have significant consequences on incentives for workforce participation. As an illustration, the withdrawal of income-tested family benefit payments when a parent returns to either full-time or part-time work can impose an extremely high effective marginal tax rate on post-parental leave income. This can distort choices regarding workforce participation. These issues are discussed further in chapter 9.

Cost effectiveness

The costs of implementing a paid parental leave scheme need to be weighed against the expected benefits. As discussed above, the interaction of a parental leave scheme with family assistance payments may alter the level of overall support provided to parents, perhaps adversely influencing workforce participation outcomes (and implying a larger cost to taxpayers if the scheme were to be government-funded).

Several participants argued that problems with the current family benefits system, including child care subsidies, warranted review. Leonie Johnson argued that all family payments should be amalgamated into a single means-tested benefit that families could choose how to use (sub. 179, p. 1). The Australian Industry Group called for greater coordination and streamlining of family assistance programs in order to contain costs (sub. 182, p. 4). Such a broad review is outside the scope of this report.

Excessive risks to government revenue should be avoided. The simplest approach to limiting those risks involves placing a cap on potential liabilities. This could be given effect through a range of design features that are discussed in later chapters.

Simplicity

While all programs involve some administrative and compliance costs for governments, firms or individuals, those that are more complex (in terms of, for example, rules covering eligibility, withdrawal rates, top up payments and substantiation requirements) will impose higher compliance and administrative costs than simpler programs. Efficient program design should aim to minimise costs that are unnecessary in meeting the objectives of the program. One way of doing this might be to build on existing administrative systems, rather than to introduce new ones. The design of the parental leave scheme should also be such that employers and employees can readily understand their obligations and entitlements.

Evaluation

Proper and timely evaluation of family benefit programs including paid parental leave is critical to transparency, accountability, achievement of program objectives and policy learning. One important consideration is the collection of appropriate baseline and ongoing data to allow for subsequent evaluation of a program. Such an evaluation should take account of all benefits and costs, including those that cannot be quantified but are nevertheless important (chapter 6). The initiation, continuation or modification of a program should be dependent on the results of such an evaluation. Public reporting of these results should be mandatory as it reinforces the need for policymakers to act in the best interests of the community. The desirability of regulatory review was explicitly recognised by a number of participants including the Catholic Commission for Employment Relations (sub. 224, p. 4). The Commission's views on these matters are discussed in chapter 2.

Other considerations

One 'external' factor that affects the ability of any particular model of paid parental leave to generate benefits is the availability of supporting facilities or services outside of the leave arrangements themselves. Examples raised with the Commission included the availability, quality, cost and regulatory environment for child care services for children of different ages, and the existence or otherwise of family-friendly practices in workplaces (including, for example, areas set aside for breastfeeding or expressing milk). Another example is that the scope for baby health care and breastfeeding advocates to influence mothers' baby care behaviour is affected by the length of time the mother stays at home after the birth (Public Health Association of Australia, trans., p. 20).

The evidence concerning the claims made by participants is discussed in later chapters. Many social and economic benefits have been asserted, but without substantive hard evidence being cited. The rest of this report seeks to assess the public submissions and the relevant literature for insights and evidence, to see what they tell us about good rationales and achievable objectives, and about design features (such as duration, payments levels and eligibility requirements) that would help achieve those objectives.