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PRODUCTIVITY COMMISSION

**DRAFT REPORT ON PAID MATERNITY, PATERNITY
AND PARENTAL LEAVE**

**MR R. FITZGERALD, Presiding Commissioner
MS A. MacRAE, Commissioner**

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON THURSDAY, 27 NOVEMBER 2008, AT 9.02 AM

Continued from 26/11/08

MS MacRAE: Welcome today to another day of hearings for the Productivity Commission inquiry into paternity, maternity and paid parental leave. This is our fifth day of hearings post our draft report and our second in Sydney. I am Angela MacRae, one of the commissioners for the inquiry. Robert Fitzgerald is the presiding commissioner and he's unfortunately not available to be with us this morning but will be here this afternoon.

I should just say that witnesses are required to be truthful and honest in their presentations and I'm sure we won't have any problem with that today. Just in relation to the media, to let you know that they can be present at any time and while they can take pictures, there is no sound recording for the purposes of rebroadcast without the consent of the people involved. But as I say, the media can be involved at any time.

So to start the day, we have the Finance Sector Union. If you would like to introduce yourselves, the organisation you represent and then if you could make an opening statement and we'll have some time for discussion.

MS WRIGHT (FSU): Thank you, Commissioner MacRae. My name is Sally Wright. I'm a national industrial officer for the Finance Sector Union of Australia. I also have appearing with me today Joy Buckland, who is an FSU member, and also the local executive president of the New South Wales local office of the union, and an employee of the ANZ Bank. Also in attendance is Rosanne Kerlin. Rosanne is the national director for campaign and bargaining with the Finance Sector Union.

Commissioner, the Finance Sector Union is a trade union representing approximately 50,000 members employed in the finance sector across Australia. The FSU welcomes the opportunity to make submissions to the Productivity Commission's inquiry into paid maternity, paternity and parental leave. I'd like to just give the commission a quick outline of the key points that we would like to discuss today. As you're aware, the FSU has made written submissions around the draft report. It's not our intention today to go through every single aspect of the written report, we'd just like to comment on a couple of aspects in relation to the proposed scheme.

In the first instance, I'd like to provide a brief profile of the finance industry; I'd then like to make submissions around our support for the scheme and then offer some additional comments about the commission's proposed eligibility test. Ms Buckland will then make submissions around the interaction of the proposed scheme with the existing, privately negotiated arrangements and offer some further comments on the FSU's views around the need for flexibility in the design of the scheme. Time permitting, then I'll make brief submissions around the accrual of entitlements and the governing arrangements for the scheme. We envisage that will stay within the allocated time and hopefully have some time left at the end for questions. Thank you.

If I could just provide a brief overview of the finance industry, a majority of the employees are women. Around a third of those work part-time. There's increasing casualisation, particularly in the retail sector of the industry. Many of our workers are low paid, and unfortunately our industry has the highest gender pay equity gap in Australia, with females earning on average 77 per cent of full-time male earnings. Gender segregation exists between occupations. Whilst some finance employees are covered by enterprise agreements with paid parental leave arrangements, many are not, particularly those working in small firms in the finance industry, many of whom are either directly or indirectly reliant on the award system.

A growing number of those employees are also being offered individual contracts such as the previous AWAs, ITEAs and common law contracts. So in summary, the finance industry employees, as with the broader workforce, basically fall into two main groups, those who currently have access to paid parental leave and those who don't. So we therefore appreciate the difficulties that the commission has faced in designing a scheme that takes into account and tries to balance the needs of those two different groups of workers.

There is a danger though that focusing on this simple dichotomy within the finance sector might underplay some of the other factors that are at work. Balancing work and family responsibilities remains key for many finance workers, even those in large organisations with access to parental leave arrangements. For example, in the past 12 months, the FSU has handled 33 formal disputes around parental leave and an additional 32 formal disputes in relation to more general parental responsibilities, such as change to hours upon return from parental leave, discrimination on the basis of family responsibilities and selection processes for retrenchment during parental leave.

It's reasonable to extrapolate from these figures that the actual number of members that are contacting the FSU for advice around issues relating to parental leave is many times higher, although I don't actually have statistics on that. Hours of work are also a concern for finance workers. Unfortunately, employees in this sector are often working such excessive hours that they are unable to take advantage of some of the existing paid parental leave provisions. Many employees in the finance sector feel under great pressure to be at work as often as possible. This impacts on the prenatal period of work, pregnancy and the return to work for employees in our sector.

Takeovers, offshoring, restructuring and outsourcing have also resulted in massive job losses in the past 15 years. This has led to a rise in short-term contracts and casualisation, most obviously in the new centralised customer service and call centre areas of banks and insurance companies. By 2006 the level of casualisation in the finance sector had increased from 2 per cent in 1999 to over 11 per cent in 2006.

With the current global financial crisis, further job losses are happening and more are expected. We believe that in this time of a global financial crisis, many finance employees face unprecedented job insecurity and financial uncertainty.

So we believe that the finance industry as a whole stands to benefit from the greater workforce participation and reduced costs for business in hiring and training new staff with the introduction of a paid parental leave scheme. We also believe that the scheme will provide an economic stimulus to the Australian economy by way of targeting financial payments to thousands of families in need of support. For these reasons, the FSU strongly supports the introduction of a statutory paid parental leave scheme and believes a budget allocation should be secured. I realise that that may be somewhat outside of your control, but we'd like to see that come into being on 1 July 2009, if possible.

Whilst we believe that the scheme that you've put forward is a great start, we also recognise that there's a difficulty in balancing all of the issues but we welcome it as a first step. We will in the FSU, as well as the broader trade union movement, continue to campaign for six months' paid parental leave at full wage replacement over the next five years.

If I could just move on to the issue of eligibility, while we've made extensive comments in our written submission, I'd like to make a few additional comments and seek the views of the commission around this important issue. The FSU recognises that many women have fluctuating levels of participation in the workforce and that this presents a challenge when trying to establish eligibility criteria for the scheme. The FSU believes that the same net basic financial payment should be made to all new parents irrespective of the current employment status, that is, whether they are working or not working. However, we do recognise that the Productivity Commission has explicitly designed a leave scheme for new parents linked to workforce attachment, so it's in this context that we provide additional comments in relation to the eligibility test.

We are pleased and strongly in favour of the fact that you've proposed an eligibility test that aims to provide access to parents in non-permanent employment, such as casuals and contract staff and for those in multiple jobs. Whilst the proposed eligibility test would provide access to parental leave for many finance workers who do not currently enjoy these arrangements, given the precarious employment in the industry, we're concerned that the proposed requirement for an eligible employee to have worked at least 10 hours a week on a continuous basis for 12 months with one or more employers prior to the expected birth of the child may exclude some part-time and casual workers in the finance sector from the scheme. The FSU therefore supports the ACTU's recommendations for a broadening of the eligibility criteria to six months' continuous employment with one or more employers with an average of seven hours per week. In relation to the seven hours per week, many

finance sector workers work an average of a 35-hour week as a full-time equivalent. So we believe that an average of seven hours a week would be a better threshold for workforce attachment.

Similarly, as many casuals experience breaks in continuity of service, we believe and favour the reduction from 12 to six months' continuous employment with one or more employers. In this respect I was present yesterday when the commission and the STA discussed this matter. I see merit in the commission giving consideration to eligibility arrangements along the lines of those discussed with the STA; perhaps specific arrangements aimed at casual workers where they have worked an average of say 40 weeks over the previous past 52 weeks. But obviously that's something that we'd like you to give consideration to.

MS MacRAE: Yes.

MS WRIGHT (FSU): We also have concern in relation to eligibility and qualifying with second and subsequent births. As you'd be aware, women are delaying their childbirth and often, as a result, having children closer together. We wouldn't like to see the eligibility test exclude those women from subsequent periods of statutory paid parental leave. So we'd like the commission to give consideration to counting as service both the unpaid and the paid parental leave for the purposes of meeting the eligibility test.

At the end of the day whichever eligibility test is decided, some will qualify and some won't. We think that the commission needs to give careful consideration to the evidence that's required to meet the eligibility test, particularly for those employees that work for more than one employer. I think the ACTU has suggested using the ATO tax threshold declaration and the FSU sees no problem with this suggestion. What is clear that both employers and employees need to be clear about the evidence that is required. We also believe there needs to be an independent umpire in the event that eligibility is unclear or it is contested. I will just hand over to Ms Buckland to move on to some feedback. Thank you, Joy, Ms Buckland.

MS BUCKLAND (FSU): Good morning, my name is Joy Buckland and I work for the ANZ Bank in Sydney. I've worked for them for 21 years and I've worked in Newcastle and Canberra and now in Sydney. I'm actually here appearing on behalf of the Finance Sector Union representing workers in my sector. I had available six weeks' paid maternity leave in 1996. It seems a whole long time ago now. My daughter is now 12. So at that time we had actually negotiated an arrangement around six weeks' paid maternity leave. I was one of the first to get it, which was interesting.

So as Sally foreshadowed, I would like just to talk about two aspects of the paid parental leave proposed scheme which is around the interaction of the scheme and

the existing arrangements that we have. I would also like to talk about flexibility in the design of the scheme. So firstly, I am pleased to report that I did actually take paid maternity leave with my employer. ANZ states that the purpose of a parental leave policy for them, and I quote:

ANZ has a strong commitment to retaining skilled employees.

They now offer up to 12 weeks' paid maternity leave to the primary caregiver. The flexibility in that is that you can actually take it as a lump sum. So I presume there's a tax benefit potential there. You could take it as 12 weeks' normal pay or 24 weeks of half pay. There is no qualifying period with my employer, which I think is probably about the only one that doesn't. They also provide one week's paid leave to the co-parent, and that is to be taken at the time of the birth or adoption.

It turned out that really ANZ sees it as a retention policy. People that work in my sector require a great deal of training. It's a complex area of employment. I actually do training within that sector now. I train managers. Within my unit we discussed the cost of employing a teller. It costs \$60,000 to get a teller up to able to serve competently. A branch manager is \$150,000. Now, turnover is obviously a concern for a large organisation and paid parental leave is seen as assisting the return to work of parents.

Having said that, ANZ, along with other large employers in the finance sector, and I'm going to talk about NAB and Westpac, formalised union-negotiated six weeks' paid maternity leave arrangements in the mid-90s. What they actually found was they benefit from this policy. By 2001, ANZ return to work rates improved to 87 per cent. In 1998 the National Australia Bank had 100 per cent of its employees who took maternity leave returning to the workplace. In the three years to 2001 Westpac had a return to work that went from 52 per cent to 94 per cent. You will find that some of the statistics are a little bit - because of the way they were collected at the time.

MS MacRAE: Yes.

MS BUCKLAND (FSU): But clearly parental leave provisions in negotiated agreements were good for business. So I was a member of the ANZ enterprise bargaining negotiation team during the 90s. So I was actually involved in pursuing and campaigning for that inclusion. I remember at the time that to introduce paid maternity leave my employer didn't see the full value. Whilst that condition was on the table it meant that other conditions to include that - other conditions would not be picked up. In negotiations they would see wage rises and conditions as a package and they would cost them out.

MS MacRAE: Yes.

MS BUCKLAND (FSU): So there would be a commitment, "We're not spending any more on this however it is structured." So my fellow finance sector workers campaigned hard for paid parental leave and we would not like to lose it. In saying that, that's where the clash occurs or the concern that there may be a clash. What we're asking of the Productivity Commission is to include a no-disadvantage clause or test to ensure that no employees will be financially worse off as a result of the introduction of the scheme.

Whilst FSU strongly supports the government funding of the basic entitlement, we are concerned the commission has not proposed the inclusion of measures that would require employers to maintain their existing privately-negotiated agreements. The CBA and the NAB have refused to commit to retaining those negotiated arrangements once the government scheme is introduced. For example, a teller at ANZ who is currently entitled to the 12 weeks' paid maternity leave under the internal scheme that we negotiated would be \$4510 worse off if those agreements were lost. In the FSU written submission there is a whole group of illustrations from a whole range of organisations in the finance sector and how the members would actually be disadvantaged financially. So do you have any questions about that at all?

MS MacRAE: Have you got some other opening statements you wanted to make and then I'll take questions overall.

MS BUCKLAND (FSU): Okay. I just want to talk about flexibility, please.

MS MacRAE: No, that's fine. I think if you just finish your opening comments and then I'll hold all my questions till the end. It's probably the easiest way to do it.

MS BUCKLAND (FSU): Certainly. The other matter I would like to talk about is the flexibility of the scheme. The FSU supports the Productivity Commission's stated overarching principle of flexibility for families to adapt the scheme to their specific needs. However, we have concerns that there will be less take-up of the scheme if parents cannot make their own arrangements around what best suits the family needs, the wellbeing and best financial outcomes for the families. Also in the report there is a range of examples that we have gathered from our members saying how they would like to take those arrangements differently.

So everyone's situations and needs are different and FSU's submission include those range of ways. Of course employers - we understand the employer's need to have reasonable notice when people want to make those arrangements. That's only acceptable. Having said that, employers and employees successfully manage leave every day. This would be another part of that leave. With the scheme's flexibility the best outcome for mothers, fathers and the babies will result, I believe, and people

will not be unduly restricted by the scheme if flexibilities are apparent.

Just a personal note, and just to say that my situation was different. There wasn't paid maternity leave at all, not that six weeks' was enough, but my husband and I saved enough money to actually decide to have a child so I could take six months' unpaid leave to stay at home with Natasha. A week before I returned to work, my husband resigned and he became the primary caregiver because I earn more money than he does. There would have been a range of ways that we would have structured our paid parental leave.

I would say in today's context and the potential of this scheme that my family would have benefited from the scheme and flexible arrangements and also with the improvements in the existing negotiated arrangements, as long as they carried forward, yes, I would see we would be benefited.

So just in closing, I'd just like to say that I strongly support the six months' paid parental leave for Australian families. I would really like Australia to catch up with what's happening globally and in that catch-up, recognise that other nations support and recognise the roles of mothers in society. I would like my daughter Natasha to grow up in a more progressive society that recognises the value of the family unit. Thank you.

MS MacRAE: Thank you. I'll just say we've only got about 10 minutes, so I would like to have a bit of time for questions, so nothing else you wanted to say?

MS BUCKLAND (FSU): There's nothing further.

MS MacRAE: Did you want to make a couple more points?

MS WRIGHT (FSU): Just one last comment in relation to the accrual entitlements: we note that the Productivity Commission asked for specific feedback on whether other entitlements such as sick leave, recreational leave and long service leave should accrue during the period of statutory paid leave. Apart from being discriminatory, the FSU believes it would be problematic to distinguish this type of paid leave from other forms of leave. We believe that it should be treated in the same way as other leave and therefore entitlements should accrue during that period. Thank you.

MS MacRAE: All right. Thank you very much for that. There's a lot of issues that you've raised, so I'll just try and focus in on a couple of them in particular. Can I just ask, in relation to the problems of flexibility, were there particular things about the design that you felt we needed to look at? I'm assuming that one of them was having to take it within six months of the birth.

MS WRIGHT (FSU): It was around the "when", yes.

MS MacRAE: The interpretation of what we had intended has been slightly misconstrued because of the way we summarised something into a table, so I just want to make it clear at the outset that we weren't intending that we would be prescriptive about when privately negotiated leave would be taken, whether it would be first or second in terms of private negotiations and what the government program is. The reason we put in the six-month time frame was primarily because of the administrative burden for government. Now, we see, because of options and people taking things at half pay that the six months isn't going to work, so I can tell you we are looking at that now, so it's definitely an issue that's on the table for us.

We've had a couple of suggestions around it and I'd just be interested in your views, if you have them. One would be that instead of requiring that the leave be taken within six months, that it be taken within 12 months, and that any other private leave, whether it's maternity leave or annual leave or any other, could be taken first if desired. The alternative would be to say that we won't be concerned about concurrent leave, so we would say that you would need to take the government component at the time of birth, but it would be no problem to be taking other leave at the same time if you so chose, because the other concern we had was that obviously what we're proposing isn't at full replacement wages; where people have leave that's available at full replacement wages, they might want to take that first. So do you have a view - I know that's a lot of talking - but would you see a preference? Do you see concurrence as a problem or not? Should we be worried about it, because we really did want to try and extend the period of time people had at home. But the overwhelming evidence seems to us to be that most mothers - families at least - have indicated that they really do want to extend as long as possible the time at home in any case, so maybe concurrence doesn't really matter, or would it be better to have a 12-month rule retained and no concurrence?

MS WRIGHT (FSU): Yes, we have given consideration to this. Our overarching position is that people should have the maximum amount of flexibility in deciding how best to structure the proportion of paid statutory and unpaid leave arrangements. I think if you could design a scheme where there wasn't a restriction as to whether you could take concurrent leave and/or whether you could take pre-birth leave, then perhaps the statutory leave and then reaccess other periods of leave after that, so that there wasn't a cut-off period at the six months, and even a cut-off period at 12 months, given employees actually would, even at half pay, go over the 12-month period if you added the 18 weeks plus other forms of leave. So I think if you had concurrence as a possibility and extended the period for 12 months, that you would probably do away with some of those design issues.

MS MacRAE: I think if we said we weren't concerned about concurrence, we might just specify a very short period in which it had to be taken, so we wouldn't worry about the 12-month rule. We could just say there's no concern about

concurrence, so take it quickly, it makes it easy administratively and there's maximum flexibility.

MS WRIGHT (FSU): And if you get paid twice during some part of that, then that's well and fine.

MS MacRAE: That's right, that you can use that pay for a longer period.

MS WRIGHT (FSU): Yes. We did also think that particularly for those people who don't have current access to any period of paid parental leave that they should be able to access the 18-week statutory leave prior to the birth of the child. So that's another factor in terms of flexibility. Once again, probably more likely for those who don't have existing paid parental leave, we would see merit in being able to take the statutory leave at half pay so that people can best manage their cash flows, so that was another aspect in relation to flexibility.

We also thought that with the two weeks' paternity leave that there was an issue around the flexibility there as well, that our feedback from members and in fact some of the employers' submissions, the initial employers' submissions, suggested that a lot of employees valued the father or the other eligible partner being able to take parental leave later in the 12-month period. So we'd ask that the restriction to take it within six months on a use it or lose it basis be extended for 12 months. That is often the time when the other partner can assist the primary carer's transition back to work and the child care arrangements for the child. We also note that there was perhaps a restriction on having to take the statutory leave before other forms of leave and that, I understand, is the thing that you're thinking about, a miscommunication.

MS MacRAE: Yes.

MS WRIGHT (FSU): We also think in terms of flexibility there's only at the moment a proposal for one transfer between parents and we think that there could be some exceptional circumstances where it may be that parents might need to transfer the primary carer's leave entitlement more than once and we believe that as long as the parents give their respective employers the reasonable period of notice, that there shouldn't be a restriction on that only occurring once, recognising that a large proportion of people that access that arrangement, but for those special circumstances, it might be very important.

We also thought that there could be special circumstances where there may be the ability to transfer the leave to another close family member and we would see that as existing only in special circumstances such as, say, the death of the mother. It could be that a grandparent or a sibling or some other close family member might actually take on the role of primary caring and leave paid employment while the father or the other eligible partner remains the main breadwinner, so we would like

perhaps some flexibility around that and I understand that would be probably in exceptional circumstances. So they're our main issues in relation to flexibility.

MS MacRAE: That's all useful and I probably won't have time to talk about all those things but we have heard many of those things and they are issues that we're definitely thinking about. I guess the main constraint on us in terms of maximum flexibility from the employee side is not just the admin for employers but also there's government administration on all this, checking certain amounts of leave. There's a total that's going to apply for one child, so the one family, and if there's more than one transfer, we've got to keep track of how many weeks have been taken, and those sorts of issues are obviously on our mind. But having said that, we can see some advantages in giving more flexibility, so they're issues we're definitely looking at.

Can I just then - because we do only have a couple more minutes - go back to the issue of the no-disadvantage test and the concern about existing schemes. We at the moment have taken the view that for the vast majority of employers offering these things, and I think in the evidence that you provided to us, that there's a good business case for many of those existing schemes. So there's good rationale for business to continue to provide those schemes even where a government scheme comes in, particularly also where there's competition for skilled staff, as will often apply in your sector. To maintain that employer of choice position they will want to retain those schemes to be relatively ahead of the field because obviously the government scheme will apply across the board.

So I guess I would be interested in your views. I guess if I was an employer at the moment I would be taking the conservative view that your employers have shown that, "Well, I'm not guaranteeing I'm keeping this at the moment. I've got no idea what's coming in at what level, when," all of those things. So I wouldn't want to be giving any commitments at this stage either if I was them. That seems a rational position to me. But do you think given the business case and the strength of the figures that you're able to show us in terms of the business case in your industry that a no-disadvantage test is something that's really required?

MS BUCKLAND (FSU): There is also - you will get people who will lead and bring in these policies. Then you will have others that go the other way, which will quite possibly be the Commonwealth Bank, who will remove it. Then that sets another benchmark down here to say, "Well, maybe we'll get rid of it because they've got rid of it." So there is competition both upwards and downwards in the finance sector. That's our concern, that those employers will remove that from their policies.

MS MacRAE: I guess we would be concerned to make sure that nobody is worse off, that no-one goes backwards as a result of this, because as you rightly point out you have negotiated these things - - -

MS BUCKLAND (FSU): Yes, we gave this to - - -

MS MacRAE: - - - and you've bargained for and you've given things up for it. But I guess the other thing is that once there is a base level of provision by the government whether or not your members would see value in potentially repackaging the arrangements, so where 12 weeks of or 14 weeks of full paid leave might have the thing that you wanted most in the absence of a government scheme, whether or not other family-friendly arrangements or other things might be a more attractive part of a package - so would you see a problem in restructuring of those things rather than - is your concern an overall detriment rather than a concern that you actually must keep the structure of your scheme exactly as it is at the moment?

MS WRIGHT (FSU): I think there's two major concerns; both of those. The first is that we're concerned about the actual arrangements that are sitting in enterprise agreements and that we would strongly argue that those arrangements should stay in place until that agreement is renegotiated, so that at that time you can take account of however the scheme is finally proposed and reconfigure during negotiations so that it isn't something that is the employer's decision that they have the right to reconfigure something that was agreed with their staff.

The second thing is that we have concerns about some of the paid parental leave arrangements in our industry that sit in policy. So at anytime the policy can be changed unilaterally. So they have been fought for and bargained but through the process of - - -

MS MacRAE: Right. So they're policy rather than legislative?

MS WRIGHT (FSU): Correct.

MS MacRAE: Yes.

MS WRIGHT (FSU): We have some enterprises such as the ANZ where the 12 weeks sits entirely in policy and we have some enterprises where it sits entirely in the enterprise agreement and we have some where there's a combination.

MS MacRAE: Right.

MS WRIGHT (FSU): We just have concerns, and we're not convinced, that the majority of employers in the finance sector will voluntarily keep their existing programs or reconfigure them in such a way that won't save them money and be of detriment to our members.

So we see that if a good employer is a good employer they won't be afraid of a no-disadvantage test. If the employer is trying to do something that is not in good

faith, then that's why we should have a no-disadvantage test. We believe that Fair Work Australia would be a good place to actually be able to take disputes, to have a neutral umpire to look at whether or not the employees have been advantaged in comparison to what the arrangements were in the past.

MS MacRAE: Right. Okay, well, we are out of time but that has been very useful, thank you.

MS WRIGHT (FSU): Thank you.

MS MacRAE: I will certainly be looking in more detail at your submission. But thank you for that. If I could have Jessica Brown now to come in, that would be great.

MS MacRAE: Okay. Well, if you could introduce yourself and any organisation that you're representing and some introductory comments?

MS BROWN (CIS): Sure.

MS MacRAE: Then perhaps a chance for discussion. Thanks.

MS BROWN (CIS): Yes. I'm Jessica Brown from the Centre for Independent Studies and my position is policy analyst. So I'll launch into it. Thanks for the opportunity to appear before you today. One quick disclaimer that I'll make: I'll refer to submissions made by the Centre of Independent Studies but any publications which are put out by the centre don't necessarily represent an official view of the Centre for Independent Studies. So the comments represent my views, even though I do represent the CIS. Also, Centre for Independent Studies, I'll refer to as CIS, just for ease.

So our initial submission to this inquiry suggested that any paid parental leave scheme should be a universal taxpayer-funded payment available to all new parents regardless of their work arrangements, which replaces existing benefits such as the baby bonus. The submission argued that if there was a requirement for a much longer period of parental leave then a mechanism to assist parents to self-fund should be introduced. We canvassed options for both savings and loans schemes and also pointed to the much detailed proposal for a HECS-style loan put forward by the Committee for Economic Development of Australia.

Following the release of the commission's draft report we made a second submission critiquing this proposal. So I'll focus on this primarily but feel free to ask me questions about our submission. After reading the draft report it became apparent that the narrow terms of reference of the inquiry significantly limit the extent to which the commission's objectives can be achieved. The terms of reference specifically called for a model for paid parental leave, which actually leaves out any discussion of whether reform of the existing system of family benefits may be more effective or may actually be complementary to a parental leave scheme. So our position is that paid parental leave shouldn't be conceived of as a stand-alone policy. It's necessarily part of a larger suite of family benefits.

Now, I'm aware that the commission is bound to act within the terms of reference that has been given and that you haven't been asked to comment on the whole system of family payments but nevertheless I thought this was a worthwhile point to make. The Treasury review of tax and transfer payments which is coming up will review all family benefits and I think that this is an appropriate place to look at paid parental leave within the context of the whole system of family payments.

So I have just got a couple of comments to make. First of all, our submission argued against the requirement for business to act as paymaster and to pay superannuation. I'm not going to elaborate on this one because I'm aware that lots and lots of other people have responded to this in detail, but I just wanted to put forward that we don't think it's the job of business to carry out the government's social policy objectives.

Also, our initial submission suggested that a universal scheme might crowd out voluntary schemes. This was dismissed in the commission's draft report. While it does seem unlikely that employers would revoke their parental leave schemes after the introduction of a universal scheme - and this is something we were just talking about then - it is possible that a lot of employers would absorb the payments and then just top up to wage replacement level. So the girls from the Finance Sector Union were talking about how this might be possibly impact negatively on employees as they might lose some of their entitlements, but my concern is also that this is really a deadweight loss of taxpayer money. So it's government or taxpayers funding something that business would have funded anyway and I don't see this as a particularly efficient use of taxpayer money.

Previous work from the Centre for Independent Studies has argued that family payments should be made more simple. Recent comments from the Treasury secretary, Ken Henry, suggests that one of the aims of his current tax review was to simplify the family payment system. One of my concerns is that the commission's proposal does add a significant degree of complexity to the system. I know while it is customary for income replacement payments to be treated as taxable income, in this case I think this will make the system significantly more complicated. So families' eligibility for other payments such as family tax benefit will be affected. Families will benefit to a different degree depending on when in the tax year their baby is born and some higher-income families will be better off opting for the maternity allowance instead. So this level of complexity does run counter to the goal of simplifying the family payment system. I'm just reading all my little notes that I've made in the margin here.

MS MacRAE: Yes. No, that's fine.

MS BROWN (CIS): I note also that the Finance Sector Union's submission also talks about the flexibility. You mentioned the problems in introducing more flexibility into the system, the problems for government in administering this scheme. That's why I wonder if a scheme which isn't sort of more simple overall - say, almost a sort of similar policy to what we have got, with just one payment for all new parents - wouldn't take out some of this degree of complexity.

Also the reduction of churn through the tax transfer system has been identified as a goal in several previous works published by the Centre for Independent Studies,

and this churn occurs when families pay tax and also then have the money returned to them as family payments. In the past some of our authors, Barry Maley and Peter Saunders have argued for a single universal and non-means-tested child care benefit or dependent child benefit paid through the tax system as a way of reducing churn, and something like this, a sort of single payment, offers flexibility across the life and work cycle as the circumstances and preferences of individual families change.

The second submission that the CIS made opposed the inclusion of two weeks' paternity leave, not because I think that the role of father isn't important or that the evidence about the increased role of fathers isn't compelling but simply because the draft report stated that the effect on father's behaviour probably wouldn't be that great. I think this sort of runs counter to the idea of evidence based policy-making and it's not a very efficient use of taxpayer money to be implementing something that we know from the outset is probably not going to affect people's behaviour much and won't really work.

The draft report states that increasing women's workforce participation is not in itself desirable but paid parental leave is justified because it helps women overcome the obstacles which they face to greater participation and there is ample evidence that the current system of family payments gives women a lot of hurdles which they have to overcome to - it distorts the decisions of women who might choose to go back to work earlier or work more. So, again, though it's outside the terms of reference of the inquiry, it does seem sensible to me to investigate whether reform of the current system, such as family tax benefit, would have a greater effect on women's participation in the workforce and I think in the interests of efficiency and simplicity if it should be made first to remove the obstacles rather than putting in place a policy to overcome those obstacles.

Also the possible unintended consequences of the policy shouldn't be underestimated. While it's been argued that the imposts on employers will be small, they may still have the effect of discouraging businesses from hiring women of child-bearing age and this could be especially pertinent now because of the greater pressures that businesses are facing due to the financial crisis. The draft report put out by the commission does note that similar policies overseas have often entrenched discrimination against women in the workplace despite their actual objective being greater gender equity. Over the past few years the market has been responding very well to employee demands for better work/family balance and increasing numbers of employers are offering benefits such as flexible work and paid parental leave. Allowing this market response to continue without government interference will probably mean that change will happen at a slower pace, but could also avoid the possibility of those negative, unintended consequences happening.

Maternal and child health and wellbeing is the most important and least controversial objective. It's also the area in which the evidence is the strongest.

However, the draft report notes that this objective conflicts with the objective of workforce participation. I think there is a danger that in trying to reach a compromise position between the two objectives neither is adequately met. I think there is room to discover whether another policy mix, possibly such as the existing mix of a universal cash payment plus unpaid leave entitlements, although with reform of the family tax benefit may be more effective in achieving both of these objectives simultaneously while avoiding some of the other complications and problems described.

Finally, the second submission made by the Centre for Independent Studies objected to the idea that public policy should be designed to endorse a particular type of working care arrangement. While the working family - to borrow from Mr Rudd - is becoming the norm, there is still a significant proportion of families who prefer to have one parent at home. There is quite a bit of evidence that the current system of family payments is more generous towards single-earner families and, as a result, endorses this arrangement. Some people have argued that paid parental leave will provide a counterweight to this by providing a payment which is specifically for working families or working mothers. I don't believe it's the job of the government to endorse any particular arrangement, instead policy should be designed to allow to make choices freely and this is something again that I thought of when there was talk about people, for example, who were having second subsequent births might not be in the workplace.

I think old idea that we've got working mums on one side and stay-at-home mums on the other and never the twain shall meet is - I think most families, their preference is for how they share work and care change depending on where they're at in their life, what's going on with their children and so I don't think it's necessarily (a) the job of the government to preference a particular family type over the other and (b) I think in doing so takes away that level of flexibility that people have in moving between different arrangements. So again acknowledging that that's outside the scope of the inquiry, I think the solution needs to be to reform the whole system of family payments so it was neutral between all different family types and all different WorkCare arrangements and equitable for all families. Thanks again for the opportunity to present this and I'm happy to take any questions you've got.

MS MacRAE: Thank you. Again, there is an awful lot there but I guess the first point is that in looking at the issue of whether or not we should be paying the same amount to all families - I have to say that I think the commission would agree with the bottom line that you mentioned elsewhere in your presentation that if all we were concerned about was providing financial assistance to families and everyone would be getting the same, we would not be bothered with all this paraphernalia of a paid parental leave scheme, we would just increase the baby bonus and be done with it. Why would we go to all this trouble?

But I think then the reason we would choose to go to all this trouble - I suppose partly because our terms of reference required that we would - but also, I think, that in designing the scheme we looked at three objectives and while I would agree with you that it was easiest to find the evidence and the research in relation to our first objective which was in relation to maternal and child health. I don't think the fact that it's hard to measure the others makes them any less worthy. So the other two issues that we talked about were workplace attachment for women - well, women in particular but I guess for primary carers really in the main, and the third one was about gender equity issues. The third one, I think we probably agree, is the most problematic in terms of what some people regard as gender equity, others see as completely the opposite.

But nevertheless I think there is an overwhelming sense within the community that the issues that are faced now by families are changing because in the last 30 years workforce participation of women is so much higher and while you're right in saying the commission has said that participation is not something that we should pursue in its own right. We're not trying to flog everyone to the last week that they can get out of them to be working. We do see benefits in giving women an opportunity to be out of the workforce for a period when their child is young but also then have an opportunity to come back into the workforce when their child is older.

So while I think it's sort of nirvana to say that if we could do all this as part of this big income tax review, I think Ken Henry and Jeff Harmer would probably tear their hair out and say, "Don't ask us to also design a paid parental leave scheme on top of all of this." So I think by necessity we've taken our existing scheme and you've acknowledged that we had no choice. We also acknowledge very strongly that should a major reform of the welfare system come out of the Harmer-Henry Review that we would need to rethink some of the parameters that we might suggest for our model.

I guess my key question to you then is given those three objectives - and I would have asked the previous speakers the same thing if we had had time - but do you not see a case for a difference in payment between those two groups or is there, in your mind, really nothing to those other objectives and we don't need to be worried about a paid parental leave scheme at all.

MS BROWN (CIS): I don't think there's nothing to those other objectives. I think the goal of workforce participation is a very good one and I think all the objectives are worthy. I suppose the issue I came up against - and again my criticisms of this are not necessary of the commission and of the scheme that you propose, it's my job to look at a broader policy service and I thought you're probably not going to be able to act on anything I say, but it's worth coming in and giving you our point of view.

MS MacRAE: Of course.

MS BROWN (CIS): I think they're all very worthwhile. I think the problem has been that paid maternity leave and paid parental leave has become such a symbolic thing and so many people, for good reason, are very passionate about it because there does seem to be, and there is, within the system of payments at the moment a focus on stay-at-home mums and it sort of set up that there is a specific payment for second partners who aren't earning much. The system is set up so that there is big disincentives for people to work and I can see why. I can see why people are quite passionate in saying, "Hang on, there's a whole lot of women out there who want to combine work and parenthood at the same time and we need to have something to make it easier for them." But I think because there has been such a - it has become such a symbolic issue, we sort of have started seeing it as - I mean paid parental leave really should be a means to an end, and the end is to support families to make the choices that they want to make in regards to work and having children, support parents financially, all those things. Paid parental leave is really just a means to achieve that.

I wonder if there isn't another - and I'm not opposed to paid parental leave at all. I just wonder if there isn't another different type of payment which doesn't have the same symbolic value but might achieve the same ends the level of complexity. I read a few things in the press of people that have been really supportive of the idea of paid parental leave and then when the draft report was released said - I remember specifically something from Sue Dunlevy from The Telegraph, I think, saying that after all this maybe it does seem like the baby bonus wasn't so bad after all, because it was simple, it achieved the objective of getting cash to parents when they need it, which is when they are down on one income.

MS MacRAE: I guess we would say primarily, and we do state this in the report, that financial support is not an objective of this scheme.

MS BROWN (CIS): Yes.

MS MacRAE: That we're not arguing that - we need to provide a financial base to it, because without it we don't get the incentive structures that we need.

MS BROWN (CIS): Yes.

MS MacRAE: But that is the means. But it's the means to the end, it's not the aim of the scheme. To the extent we're worried about the financial circumstances of families we would address that in other ways because this certainly wouldn't be the most effective way of doing that.

MS BROWN (CIS): Yes.

MS MacRAE: So I wouldn't disagree with that. But I think the other issue that you raised about the coverage that we would get through existing - let the market rip. So we've seen increasing coverage, "Isn't this a great thing," will we crowd things out? I think we would take the view that it has been a growing thing for the market to take this on but it has been also a feature of those changes that it has been predominantly for higher-skilled, higher-paid women.

MS BROWN (CIS): Yes.

MS MacRAE: Even where the schemes have gone to lower paid areas, and we've seen some of the retail sectors, for example - if you look at the eligibility requirement the groups that people often speak about that they're most concerned about are the casuals and part-timers and they often don't qualify.

MS BROWN (CIS): Yes.

MS MacRAE: They tend to have - in fact, it was interesting that the ANZ have no eligibility requirement, you don't have to have been there for a certain period, but most of those schemes do.

MS BROWN (CIS): Yes, you're right.

MS MacRAE: For good reason. I think it's fair to say that for many businesses there's a good business case that can be demonstrated for a proportion of their workforce. But for a proportion of the workforce there probably is not a good business case. So that to ask the market to cover that group as well I think is problematic and always will be. So our view was that if we just left it to the market it was unlikely to cover the people that were most in need. It is one of the reasons that we have designed the scheme to be relatively more generous, even though it's not a financial scheme as such, to those women that we thought would be most unlikely to negotiate anything further in the market.

MS BROWN (CIS): Yes. I wonder if - - -

MS MacRAE: So I guess that was - sorry?

MS BROWN (CIS): I was just going to say - I mean I wonder if - I think my points about letting the market rip, I don't necessarily preclude government provision of some scheme but I think some of the - I sort of mean that in regards to the possible unintended consequences of businesses that might see that this adds a level of - more requirements on them, expenses on them; small businesses who might say, "Well, we're going to be discouraged from hiring women in this group," or, as you were talking about before, take away certain benefits.

So I think you can still have - by sort of separating out the benefits that businesses provide voluntarily to their employees and the benefits that government provides to parents and separating them, I think you can achieve both while avoiding those sort of unintended consequences. No, I understand the reason for tying it in with employers, and it is to reinforce the fact that it's leave from work and parents are coming back to work. I know there's quite a lot of literature around that. But my view is just sort of if we could separate the two out and take those - and as I said to you before I know that a lot of small businesses have been coming in here and giving you their reasons why. I wonder if those can be avoided by separating them out.

MS MacRAE: I guess there's two issues I would raise in relation to that. We felt that because there are benefits to business out of this scheme it wasn't unreasonable to ask them to make a contribution. I won't say too much about this because our next presenters are a business group and I'll go through some of these things again, I'm sure. But we have really tried very hard to reduce the administration for them, for a start, so that it's only when you have somebody taking the leave that you have any additional burden whatsoever. That's quite a rare event for most industries. Now, I appreciate some of them are not and that's one that we will be hearing from next but for the vast majority of businesses a relatively rare event. So they're going to have very little extra to do in terms of administration.

In terms of cost I think because there is a benefit to business out of retention it's obviously less for the lower-skilled group that we are covering but even for the higher-skilled we're giving them a benefit. The government is providing to them so that business will benefit, I think; not as much as will occur from the private schemes but nevertheless there will still be a benefit to them. So it doesn't seem unreasonable that they would make a small contribution. Now, the nature of that we can debate and I'm sure we will further. But that was part of our reasoning.

I think in relation to the discrimination point depending a little bit on how the accruals go - so we're still looking at that. But if the accruals - as we have in our draft report the accruals elements look difficult - as a result, aside from anything else, the administration looks like it might be a reason not to proceed with that - then the maximum cost to business is very small. We think the chances of discrimination are quite small. That is certainly not the case in a lot of the overseas schemes. I think there's a bit of a danger in looking overseas and saying, "Well, they've got discrimination out of their schemes." So I guess I just caution around that. We have tried to be careful to learn from what they have done and do things differently so we don't get a discriminatory outcome.

MS BROWN (CIS): Yes, that's right.

MS MacRAE: I was just interested as well, and perhaps it will be probably the last - perhaps the last point we have time for. Just in relation to the issue of paternity

leave, I guess the point you're - again, there's two ways of seeing this. One is that we are offering something that we know might not make a lot of difference, but as a result of that we are also expecting this to be a very small cost. So in one sense it's a little bit of a social experiment, I suppose. I guess your argument is, "Well, is that going to be just a complete waste of money?" Our response on that I think would be at this stage that because we think the take-up will be small, at least to start with, the cost will be small and so it's worth putting it out there. See what happens. We have recommended reviews and have that looked at over time.

Again, looking at the gender equity issues and the juggling of work and home, we have had a lot of support for that general issue. Even from the employer groups and things they haven't generally seen a problem with that. Again, I suppose it's a question of weighting of that objective and how important you think it might be to bring some of those gender equity issues to the table.

MS BROWN (CIS): I think it's important and I think the idea of involving fathers - well, giving dad the chance to be more involved is very important. I don't have any problem at all with the objective or with the substance of it. I suppose the problem I have is that the evidence shows it's not really - we are not expecting it to achieve much. No matter how great the idea is, if it's not going to work - I think off the top of my head, and you'll know this much better than me, it's projected to cost something like \$75 million as part of the 60 - it's just - - -

MS MacRAE: I'm trying to remember. It's smaller than that, I think.

MS BROWN (CIS): Yes. I mean it's a decent chunk of money. In the context of the whole scheme - - -

MS MacRAE: It's also an extremely difficult thing to cost.

MS BROWN (CIS): Yes.

MS MacRAE: So we don't set much store by our costing, which is why I can't remember - - -

MS BROWN (CIS): No. Look, that's sort of irrelevant. But I suppose that's my point, is it would be really nice if it did work but evidence seems to suggest that it is not going to. I just don't know if that's the best and most efficient use of taxpayer money for something that the evidence is saying - it will be nice if it worked but the evidence is saying it's probably not going to work. As you said, if you sort of want to put it in place and then have a review - but once things are put in place they're very hard to take away again. So I think once it's there it will probably end up staying. Governments have a lot of trouble in taking away benefits that they have given to people. So if it worked it would be nice.

MS MacRAE: Just in relation to the eligibility - and I know that you stated at the outset that you preferred that a similar payment be made to everybody, but then I think we've got to the point where you're agreeing that there is something to our objectives. So if we were to provide an eligibility test, and perhaps you haven't turned your mind to it because of that premise of preferring an equal payment, but do you have a view about the rules that we have suggested in relation to the 10 hours and average - and 12 months?

MS BROWN (CIS): Well, as you said, my view is that there should just be no particular eligibility criteria other than having a new baby.

MS MacRAE: Would your corollary of that then be that you would reject the scheme outright and say, "Look, let's just go back to a baby bonus." Would that be your bottom line? Because if I have to say that if we went for something that said equal payment for everyone, I think that would be the commission's view: "Well, let's forget this parental leave scheme and be done with it, because we've got all this machinery which actually isn't achieving anything much."

MS BROWN (CIS): Yes. I mean, that would be a lot simpler, but at the same time I do recognise that, for a lot of women, the idea of having it paid through their employer could be something that's positive. So I think if both an employee and an employer sort of voluntarily opt in to having the employer as the paymaster, then that could work very well. That would achieve a lot more flexibility for people that way to be able to choose and also avoid that possibility of small business saying, "We don't want to have anything to do with it." You know, their employees don't miss out, they sort of don't miss out as well.

As I said, the reason why I think that there should just be one single payment is I think it's something like 85 per cent of first-time mothers are in the workforce. So we know that overwhelmingly families - when they decide to have children, one of the biggest costs is the loss of one income, whether it's temporarily or for a longer period of time. So a government policy which supports family financially during the period of time and enables them to either readjust to a longer period with one person out of the workforce, or tide them over while one person is on parental leave and going back to work, would be very positive.

As the Finance Sector Union discussed, a lot of parents are - for example, mum might be out of the workforce because she's on her second child. Now, that doesn't necessarily mean that she should - I mean, she's going to go back to work. She's been at work, she's paid her taxes. You know, I don't think that she should get a lesser payment just because she wasn't in the workforce right before she had her child. I think it just adds a layer of complexity and it encourages people to sort of plan their families in a way to maximise payments and I think the job of government

policy should just be to lend a level of support and give people the most flexibility possible.

MS MacRAE: Okay. Well, we're probably out of time.

MS BROWN (CIS): Thank you.

MS MacRAE: So thank you for that and if I could call for the Hair and Beauty Australia to come to the table. That'd be great. Thank you.

MS BROWN (CIS): Thanks Angela. All the best.

MS MacRAE: Okay, if you could introduce yourselves with your full name and the organisation you represent, and then some opening comments and hopefully some time for discussion. Thank you.

MR MALLETT (HBA): Thanks, commissioner. My name's Robert Mallett. I'm on the board of Hair and Beauty Australia, the national peak body for the hair and beauty industry. I'm also the executive officer of Hair and Beauty Tasmania, which is the peak body within Tasmania. In general, I and the organisations which I represent have no issues in principle with paid maternity leave and, in our original written submission, we supported it. But there are some aspects which we have some significant concerns because of the predominantly female employee nature of our industry, and also very much the small business nature of our enterprises. For example, in Tasmania 100 per cent of the hair and beauty salons that we'd have in place would be classified as small businesses and, as such, some of the provisions and suggestions that have been made in the draft report would be unaffordable in many cases and create a significant amount of angst for some of our members. But I think we'll expand upon that as we go through.

MR CHRISTODOULOU (HBA): Gregory Christodoulou. I'm the executive director of Hair and Beauty Australia and also the executive director of the Professional Hairdressers Association of New South Wales, which is the peak industry body for the hair and beauty industry in New South Wales.

MS MacRAE: Okay. Would you like to make some more opening comments there?

MR MALLETT (HBA): I suppose. This is a bit of a two-step, so I'm sure Greg will interrupt me, or I'll do the same. Look, there are two significant areas which we have an issue with. One is the payment of superannuation by the employer. We don't feel it's in any way, shape or form consistent with the rationale for the paid maternity leave in the first place. We think - where are we - there we are. We - - -

MS MacRAE: Is that the table on page 3?

MR MALLETT (HBA): Yes, we've got the table there. The improved wellbeing of families and, in particular, child and maternal health associated with an extended period of absence from work around the birth, for example, we support fully that immediate need to provide some financial assistance to mums and their children and the rationale between trying to make a link between the employer and the employee. But superannuation is effectively looking towards when this person is 60 and we have very few people who are employed in our industry - or any industries - who are 60 who are having children who the superannuation would have some benefit to that immediate cause.

So I think, whilst it might be admirable that long-term financial planning is put in place on behalf of these people, it's grossly unfair that an employer should pay the superannuation for 18 weeks when the person may not return to work at all. Can I use a very local, from my point of view, example of that? One of our high-profile salons in Tasmania has a staff person leaving tomorrow to go on maternity leave. This person travels 20 kilometres to work and she's worked there for the best part of seven years through her apprenticeship and is now a very high-producing employee; there's no doubt about that. But once she's had the child, the likelihood that she will travel 20 kilometres through five or six suburbs to go to that original employer, as much as they love them - and the feeling is mutual - is remote.

It's much more likely that after the birth of their child that - she is a highly employable technician. She will find a job at a salon which is probably 500 metres down the road from her home, so she can access some immediate and local childcare. She can work part-time if the need be and will not return to her original employer, so why is it the original employer should be paying the 18 weeks or superannuation with absolutely no return to productivity by this employee at all? So it's very local to me and it's immediate, some of these issues. So we don't feel that it's at all necessary.

MR CHRISTODOULOU (HBA): I might also just add that another option is that the female gives birth and then just continues to do her own clients from home - doesn't find the need to continue to travel 20 kilometres back and forward. They're just at home and they can continue to cut people's hair from home and make their money that way, and look after their baby at the same time.

MS MacRAE: Okay.

MR MALLETT (HBA): That's the superannuation.

MS MacRAE: That's as much as - - -

MR CHRISTODOULOU (HBA): Just a few more comments.

MR MALLETT (HBA): Go for your life.

MR CHRISTODOULOU (HBA): As Robert said earlier, the recommendation that superannuation be paid is inconsistent with the rationale. I did find in chapter 1 of the draft report that the justification for the recommendation was that superannuation contribution paid whilst on statutory parental leave is that it's often customary for recreational leave. Well, it's not actually recreational leave when you're on maternity leave. Secondly, the fact that it establishes that it's a work-based benefit. Now, it's our position that this is just an additional justification, but it's not

consistent with the overall rationale for the whole scheme and that's another reason why we oppose that recommendation.

Just one final comment on chapter 1 also. The commission indicates that the biggest dangers of employer co-funding of paid parental leave is discrimination against women of reproductive ages. Now, I can say that in our industry that is a real danger, because what you may see is persons that are older in age or males being employed. When someone will complete their apprenticeship, they may not be then offered ongoing employment. They may then employ the brainy first-year apprentice, or employ someone that's over 40 or 45. That's a real danger in our industry.

MR MALLETT (HBA): It's unlike a lot of other industries. It's not illegal to dispose of somebody at the end of their apprenticeship, because that's when the training contract is complete. Effectively the employment ceases then and the employer would need to re-employ somebody, traditionally, after an apprenticeship, so it's not actually illegal to do that, where in other industries it would be - just because they're getting close to child-bearing age that it would then have much more serious sort of unfair dismissal consequences.

The sector is the employers paying the employees parental leave entitlements and then trying to recoup them through the system. Again, most hairdressing and beauty salons in Australia fall into the small business category and the small business category is the least compliant when it comes to regulations et cetera. So I think we're doing nothing to increase their level of compliance in whatever we do. The other issue is that given they're microbusinesses often, that's with less than five employees, if you have an employee going off on and you pay your PAYG on a monthly basis, it could well be that PAYG instalments of your few other staff is not sufficient to cover the wages being paid to the employee on maternity leave. The complexity, I would imagine, in trying to recoup the difference or the cash flow issues with having to wait until such time as you have amassed enough credit in your PAYG instalments is just untenable for some of these businesses. They don't work on that level of margin that they can afford to have an extra \$2000 out of their business on a monthly basis.

I suppose they only pay their PAYGs once a month and effectively they have the use of the Tax Office's money for a month interest free and then the reverse could apply with the wages. But it's just untenable that they should be doing that. The red tape involved - traditionally they're not great bookkeepers and that's not the industry's fault, that's just the nature of the small business sector and especially the hair and beauty industries, they have a low level of computer use in the small businesses and the level of red tape is just going to be huge to ensure they do comply.

MR CHRISTODOULOU (HBA): Just to clarify something that Robert said, he

did indicate that most of the employees in the industry - it's actually closer to 98 to 99 per cent because "most" could mean 51 per cent; it's almost all of the small business. Just finally in relation to this item, at chapter 7:

The commission recognises that the impact of additional compliance burdens and cost for business "will only be felt in the low probability event that parental leave actually occurs."

In our industry it's a very, very high probability. Looking at the career of a person, they come in as an apprentice, they do their four years, they may work for a few years and then they go off and have a baby. It's inevitable probably for close to about 95 per cent of employees. So despite the fact that the commission report recognises that it's a low probability, generally in our industry it's a very, very high probability.

MR MALLETT (HBA): Just basically from our industry it's quite discriminatory, the blanket provision that the employer would pay discriminates heavily against our industry. In the building industry they might have 50 blokes working and three girls in the office and none of them may be of child-bearing age and they may have no impact or very little impact other than the likelihood that the males may take their two weeks. But in the long-term impact of the business it's going to be much, much higher in our industry and would be quite discriminatory.

MR CHRISTODOULOU (HBA): In relation to the consideration as to whether other leave entitlements should also accrue, in the report it indicates that there would be a maximum of a 3 per cent cost of the annual wage in relation to superannuation and the paid parental leave. If other leave entitlements also accrued, you're looking at more than 3 per cent and the superannuation component, the cost of that if other leave entitlements continue to accrue you'd probably have to double it. If the superannuation component would have a large impact in itself on business if other leave entitlements, that would devastate the small business industry let alone our industry which has quite a few small businesses. It is just our position that the benefits are greatly outweighed by the burden on the industry in relation to the continuing accrual of other leave entitlements.

MR MALLETT (HBA): One of the solutions may be, and I noticed you talked to a previous person about how this should be paid and whether it's just a baby bonus in another way, but if it's going to be reimbursed through the tax system, presumably the Tax Commissioner knows who this person is that's gone off to have the baby. Well, maybe the payments can be made via the Tax Office in each case because they know who they are and the burden not be placed on the employer to have to administer this and I think to be able to be done at the central point like the Australian Tax Office, to be able to then administer payments in an appropriate fashion would be the best way to go.

MS MacRAE: Again, there's a lot there. There are a couple of points I'd make in opening. In relation to the rationales of the scheme and why did the commission go for some employer involvement, I agree with you. We have said that there would be a proportion of employees, even under our model where the government would pay them directly. So I agree with you, we would have the mechanics in place where that would be possible. So I'm not arguing that this is something we couldn't do any other way, we definitely could. In terms of relative simplicity, why have we bothered to get employers involved in the way we have and I can guess there's two elements to that.

One is the super, which I will come to in a minute. But in relation to the paymaster function, the rationale for the employer to be involved is because we see it very importantly as although the payment would be funded by government primarily - taking the super aside - that this importantly should be seen as a workplace entitlement, not welfare, and other workplace entitlements are generally paid through employers and where there is leave taken, it is generally the case that other entitlements accrue as part of that. One of them is super and one of them is other accruals for leave, sick leave, annual leave and those sorts of things.

You will know from our report that we have said that there are some administrative problems around annual leave and the other entitlements and the administration side of that was enough to make us hesitate at that point over those things. If it looked like some of those obstacles could be overcome in terms of administration, then obviously there would be the cost element that we would need to consider as well and I think very roughly your estimates might be right, that the burden on business would probably be equivalent to super - on average it would vary. So that is the first thing, the paymaster function is really about trying to ensure that this is a workplace-entrenched entitlement rather than welfare and that it would be best then paid through the employer.

There is limited evidence that where this occurs internationally there is an improved ongoing attachment between worker and employer and as a result of that hopefully better return to work which is a benefit to both employer and employee where that is desired.

MR MALLETT (HBA): But limited.

MS MacRAE: Somewhat limited. But I guess in terms of the argument that it's a heavier burden for you. I guess the building industry in that case that you gave might say, "Well, we're not getting the heavy subsidy to our employees that these other guys are getting. None of our employees are taking this leave that's getting all this government funding coming to them." It's an entitlement that people are getting that we're not having to fund. So your industry on one hand gets a business component

that's heavier, but you also get a government subsidy that's heavier as well. So there's a bit of a quid pro quo there to the extent that you think there's retention benefits out of the scheme and we've talked previously about the fact that retention might not be - and I appreciate in some specific cases retention is not going to be a benefit for the business.

But I wonder if you would be prepared to say that on industry-wide basis you think there will be no retention benefit to you as a result of women having access to, many of them probably in your industry, paid leave for this purpose for probably the first time for many of them.

MR MALLETT (HBA): At the moment what evidence we have is that people stay in the hairdressing industry for a maximum of seven years. We don't have any good quality empirical evidence to understand exactly why they leave in all cases and what are the barriers to having them back. But it doesn't appear that the fact that they have a child - well, sometimes they have the child and they go off, they get their maternity leave anyway as an entitlement, but it appears sometimes a lack of confidence to return to the workplace, a whole range of other things. But it doesn't appear that just because they're not being made maternity leave doesn't bring them back.

As I say, we have probably a maximum lifespan of about seven years for most of our employees. So the likelihood that just because after five years or six years they're going to then have the baby and then return to work as a result of paid maternity leave is unlikely, I would suggest, but I don't have any empirical evidence to support that.

MS MacRAE: Can I just ask in relation to - so if we take the two issues separately?

MR MALLETT (HBA): Yes.

MS MacRAE: I guess if I could say you're probably more concerned about the superannuation than the paymaster function would I be right in assuming that, just given that there's a heavier cost - - -

MR MALLETT (HBA): Well, it's a net cost with no productivity whatsoever.

MS MacRAE: Yes, that's right. In relation to the paymaster function, a couple of things that the commission had thought about, and I'd be interested in your reaction to them, one would be that we could reimburse more than 100 per cent for small employers. The UK, for example, reimburses about 104.5 per cent, I think, in recognition of cash flow. When we looked at the numbers the cash flow cost seemed to us to be so small that was it worth all that trouble? But to the extent that we could do that, it's an option that we could consider. That would be one option. Another option would be to say that rather than having you claim it back through the Pay As

You Go withholding, that we could design a mechanism that actually paid you in advance. So say your employee notified you that, "In six weeks' time I'm going to start my paid leave and I'm anticipating I'll take that 18 weeks," that maybe as a credit - I mean we haven't thought it through.

MR MALLETT (HBA): Yes.

MS MacRAE: But if we had a way of crediting you ahead of time, would the administration of that remain a concern or would that largely remove your concern about the paymaster roll?

MR CHRISTODOULOU (HBA): Our record-keeping requirements wouldn't change and they actually might become a little bit more difficult. In Australia there's a tendency to recognise small business. I note that you did say that there's a higher reimbursement for businesses in general in other countries. Perhaps it might be a consideration to only apply that higher reimbursement to small business, because larger businesses - - -

MS MacRAE: Yes, that's what I'm proposing, if the commission was to consider that. What I'm really trying to get to you is if we could take away the cash flow of the paymaster function would that largely meet your concerns there? I'm only talking about paymaster at the moment, not super.

MR MALLETT (HBA): Yes. I think it would definitely go some way towards it.

MR CHRISTODOULOU (HBA): Payment in advance I do believe would be highly beneficial.

MR MALLETT (HBA): Yes.

MR CHRISTODOULOU (HBA): Yes, I'd have to agree.

MR MALLETT (HBA): Yes, I think it would definitely have some benefits.

MR CHRISTODOULOU (HBA): Because an application form could be made in advance. Obviously you'd know the employee's pregnant.

MS MacRAE: I mean we can think about ways of doing that. But I guess what made it seem less attractive to us at the start is that I think it would be slightly more administratively complicated than just doing as an extra line on your Pay As You Go withholding. The issue that you raised about people being credit happens regularly with the Tax Office and there would be no problem in getting that paid to you in the same way that you would through your system. But you're right, if you're in credit you would have a slightly longer wait because it doesn't - obviously the offset means

that what you pay is less, so it's quicker than waiting for a credit to come back to you. But the credits are pretty good now in terms of how quickly they come to your accounts from the Tax Office these days.

MR MALLETT (HBA): Yes, you're right. They are.

MS MacRAE: But that issue I think is one that we are considering; so interested in your views on that. In relation to the superannuation, which I suppose is your bigger concern, and we're not surprised about that, even given the - if the average retention for you of a hairdresser is seven years, what's the probability that that woman is going to be in your employ and be pregnant at the same - even though if they're with you for the seven years they're not going to get pregnant every one of those seven years.

MR MALLETT (HBA): No, you're right.

MS MacRAE: So in terms of that probability I think it's still - the idea of it being this really highly probable event is still, even in your industry, not a fact. It is much more common than in many other industries but being much more common in 1 per cent of the time is still a relatively small number. So one question is have you got any hard figures on how regular an event it is? To the extent that you don't do you have any feel for - if we're talking about 3 per cent of annual salary, the issue around discrimination I think even in an industry such as yours would have to be fairly small - if you're looking at a difference 3 per cent of annual salary between one employee and another - although I appreciate that that's on top of the unpaid leave that you're dealing with.

But it seems to me that that unpaid leave that you're already dealing with is probably a bigger burden for you in many ways than the small super component because of that issue of holding jobs open and those sorts of issues.

MR MALLETT (HBA): I'll go first if you like. It's not such an issue. We have a severe skill shortage, although I'm not quite sure whether that's skills or whether it's labour. To some degree it's labour shortage in our industry. So if a person was to leave to go and have a baby and take that 12 months off, in most of the cases that I know of in my day-to-day dealings with my industry - if the person has been a good employee they'll have them back with open arms because the effort in training somebody for the next four years to get them up to nearly that standard is immense and costly. So if they have had somebody - they've worked well, they've gone off to have the baby - it's with pleasure that the employer keeps that job open for them, because they know the organisation.

The sad bit is they don't come back or if they do come back they don't come back for 10 years. They go off, they have one baby, they then stay at home for a

little bit longer, they may do a couple of part-time hours and then they have another one; end up having their two and a half or three children or whatever. They may return sometime in their mid-30s on a part-time basis to sort of Thursday nights, Friday nights, Saturday mornings when sometimes the younger staff have got other social issues that they like to deal with on those days and times. So that's when they'd come back to work. Unfortunately it's not after 12 months, it's not after six months. It's sometime after that I get - in experience.

MS MacRAE: Do you think though, given that experience, that the opportunity that once a woman has had a child if we were to retain our current eligibility rule, or we might modify it in some way - but if the woman could see a prospect of returning to work even part-time but then have an opportunity to requalify for this leave that it might entice her back for a period between her children when she might not, in the current environment.

MR MALLETT (HBA): I don't know. Might do. Don't know if it's the right reason why they should be coming back to work just because they can have another 18 weeks off on minimum wage.

MR CHRISTODOULOU (HBA): We're focusing it on the actual paid parental leave or the superannuation component?

MS MacRAE: No, the paid parental - - -

MR CHRISTODOULOU (HBA): The paid generally?

MS MacRAE: Yes.

MR CHRISTODOULOU (HBA): Yes, well, Robert said before that seven years is the expected career of a hairdresser and I think it's seven years because they go off and have babies; not for any other reason. But I do believe it may entice them to come back after a first child. It's rare for them to come back after the first child but it's even more rare for them to come back after a second child. But I think it would entice them.

MS MacRAE: I mean I think - just to take your point there, is that a very good reason for them to come back, I think one of the reasons that we have outlined in our report that some women don't come back is because our existing welfare - interaction of tax and welfare system means it's not attractive for them to come back. By the time they've paid child care and done all those other things the existing disincentives and barriers are there. So the fact that they're staying home isn't necessarily their preference but they're actually financially better off doing it. So why would they bother? This is a bit of a counter to that.

So it's not so much a, "We're trying to get you people back and you must come back. It will be great. Come back because we're offering you this carrot." It's more that we know that there's disincentives there and this is the removal of a barrier. So that's part of the design of the scheme and hopefully your industry would benefit to some extent out of that. Now, whether or not you think that's sufficient to offset the super cost is another issue. I'm sure that you would continue to argue that it doesn't. But in terms of the way that we've structured the super payment we've also made the recommendation at this stage that it would be kept at the minimum wage or at whatever the employee's wage was prior to taking the leave. Now, in relation to your industry do you have any feel for what sort of proportion of your employees would be at or around the minimum wage?

MR MALLETT (HBA): Apprentices only.

MR CHRISTODOULOU (HBA): Yes.

MS MacRAE: Right, okay.

MR MALLETT (HBA): Because the minimum wage in most cases for a qualified tradesperson in our industry is \$640 a week.

MR CHRISTODOULOU (HBA): 650.

MR MALLETT (HBA): 640-650, give or take.

MR CHRISTODOULOU (HBA): That's the minimum plus sufficient - yes, give or take.

MR MALLETT (HBA): Yes.

MS MacRAE: So this would be a smaller component for these women than you would generally have been paying for them while they're in your employ?

MR MALLETT (HBA): Well, 9 per cent of \$100.

MS MacRAE: Yes.

MR MALLETT (HBA): \$9, yes.

MS MacRAE: Yes, okay. If they were part-time or whatever then it would be something less than that, okay. All right. Well, I have probably - that has probably exhausted the questions I wanted to ask you. Was there anything else? I guess the other point is that in terms of the definitions that we've used in relation to who would qualify for super and who you would have the pay master role for, we have tried to

be very mindful of not adding additional new definitions that you have got to become familiar with and all of that. Is there anything just in that design element that you've got a comment on? I know your first position is you would rather not have either.

MR MALLETT (HBA): Yes.

MS MacRAE: But if we were to proceed with one or both of those roles for business, if you had any ideas about the actual design of those elements we'd be happy to hear them if there's things that - we've talked a little bit about maybe trying to find mechanisms to pay ahead of time. We have already, even if we kept our existing recommendations, suggested that the payment would only be made where you're making at least monthly Pay As You Go withholding. I would imagine most - well, if you had the sole mum at home they wouldn't be making monthly - - -

MR MALLETT (HBA): No, lots of businesses still pay on a quarterly basis their BAS, for example.

MS MacRAE: Yes, the BAS is slightly separate.

MR MALLETT (HBA): Yes, PAYG they pay monthly.

MS MacRAE: Many small businesses would do quarterly BAS.

MR MALLETT (HBA): Yes.

MS MacRAE: But Pay As You Go monthly.

MR MALLETT (HBA): Yes.

MS MacRAE: So that probably doesn't count out a lot of your members. But if there's anything else around that? Now, in terms of the super we've tried to make it easy by saying if they qualified beforehand - and they have to qualify for the unpaid leave, which means they must be with you for at least 12 months. So we wouldn't be asking you to pay for someone who'd only been with you for a month or two. Those sorts of things we've tried to make them employer friendly. But if there's other things there that might help us in design we'd be happy to hear them, although I appreciate that your first line view would be, "Don't do it".

MR MALLETT (HBA): Yes.

MS MacRAE: So thank you for coming today.

MR MALLETT (HBA): Pleasure.

MS MacRAE: We appreciate it. It's good to hear from some employer groups because we've been fairly thin on the ground in relation to them. So thanks for taking the time and putting in a written submission as well. Thank you.

MR MALLETT (HBA): On our arguments today we have actually done some writing.

MS MacRAE: Sure. Yes, we're happy to accept some more.

MR MALLETT (HBA): I've scribbled all over mine so I can take notes back. I don't know about yours. So could we submit it - - -

MS MacRAE: Yes, certainly. Probably if you could just see Hudan at the back there he can give you a card and if you can email that to us at some point that would be great.

MR MALLETT (HBA): Yes. No, we can fix that.

MS MacRAE: We can accept that as a formal submission if you'd like?

MR MALLETT (HBA): Yes, absolutely.

MS MacRAE: No problem at all.

MR MALLETT (HBA): Thanks, commissioner.

MS MacRAE: Okay, thank you very much. Sorry, we'll break now for morning tea until 11 o'clock.

MS MacRAE: Okay, well, if we could start again. If I could have Marian Baird come to the table for our next presentation. If you could introduce yourself and the organisation you're representing with some introductory comments and then hopefully some time for questions.

PROF BAIRD (WWG-USYD): All right then. Thanks very much. My name is Marian Baird. I'm an associate professor in work and organisational studies at the University of Sydney. I am here as a researcher on paid maternity leave in Australia and the convenor of the Women and Work Research Group, which is our specific research group on these matters at the University of Sydney. Thank you.

MS MacRAE: Thank you.

PROF BAIRD (WWG-USYD): Commissioner, I thank the commission very much for their work and their recommendations to date. In this submission that I have prepared and will make today, I just wanted to raise a couple of points. I think the commission has actually covered the ground very well and so I'm going to address my comments to some specific issues and leave time for questions, if that suits you?

MS MacRAE: Thank you.

PROF BAIRD (WWG-USYD): So maybe about 10 minutes?

MS MacRAE: Sure.

PROF BAIRD (WWG-USYD): Okay.

MS MacRAE: That's fine.

PROF BAIRD (WWG-USYD): I won't go through the current provisions except to say that of course we know that the current legislation provides 52 weeks' unpaid parental leave and that if we look at the provision of paid maternity leave and paid paternity leave in Australia at present there's a clear difference between those who work in the public sector and those who work in the private sector. Without going through all that data one of my main concerns is to ensure that those women who currently have absolutely no access to any paid leave around the time of birth receive that and also maintain their job security and attachment to the labour market. So those women would essentially be in the private sector and in areas where perhaps there is not a strong regulation or they're award dependent or not a strong union coverage. But you've covered a lot of that in your background document anyway.

Any parental leave scheme has certain aspects that need to be addressed and I just want to go through some of those. The first one is the duration. The

commission recommends 18 weeks' paid maternity leave plus two weeks' paid paternity leave. I think that that is a really good start and we appreciate the commission's work in coming to that period and in recommending that period. But I also note that the commission is trying to address this issue that 26 weeks, the evidence would suggest, is at least the beginning of an optimal period. The commission's recommendation is that the 18 weeks would be used to complement other leave periods, if I've got it right?

MS MacRAE: Yes.

PROF BAIRD (WWG-USYD): So this would allow parents, particularly mothers, to stay out of work for up to 26 weeks on some form of pay. All the evidence that we have worked on, and I should preface the rest of what I'm going to say by saying that we are trying to develop - that's myself and colleagues - trying to develop policy that is evidence based. So we have scoured the world for research on this area. All the evidence we have read would definitely suggest that 26 weeks is a period that we should aim to. But an additional 26 weeks to bring a period of leave up to 52 weeks is probably an aspirational goal but one that we should, over time, I suggest, try and work towards.

I note however that in many other countries there is a period of leave available before the birth of the baby. I feel that this is one area that perhaps the commission may want to come back to and look at a little bit more closely. For example, in the United Kingdom 11 weeks may be taken prior to the expected birth date. In Belgium six weeks may be taken. Canada, they may start their leave 11 to 17 weeks before the birth. My understanding is that in all those countries that's an option that parents, mothers, may take. There are a range of other countries which also have prenatal leave, paid leave. In many of those countries it's a compulsory requirement.

Now, given Australia's history in this area I wouldn't recommend a compulsory period prior to the birth but I would recommend that we consider allowing mothers some time off before the birth should they need it or should they want to take it. Having said that, I wouldn't like to see that leave eat into the current 18 weeks because then we're working backwards. So we're trying to build the period beyond the birth. So my recommendation is that we extend the current recommendation of 18 weeks to at least 20 weeks, but preferably 26 weeks, which would allow for the option of 20 weeks post birth and six weeks pre birth. That would also bring us up to somewhere near half a year for mothers, remembering that I prefaced the beginning of this section on duration with an expectation that over time we would like to get to a period of one year.

I note that in the other research one year - and research, you know, tends to be a little bit uncertain about this, but there seems to be a body of research growing that suggests that one year is reasonable for employers to manage as well and that it's a

good period for mothers and doesn't negatively impact on their workforce participation too much after one year. Beyond one year we start to see perhaps some negative consequences in terms of gender equity, wage progression and career mobility. So we need to consider lengthy periods of leave as perhaps not the best way to go. So that's duration.

Secondly, funding. I just wanted to make a couple of comments about that. The commission recommends the scheme be funded by the federal government and I have no objection to that, especially if it means that those women who receive no paid maternity leave at the moment get something and I think that's the only way we can ensure that happens in Australia. However, given that paid maternity leave is leave from work, I do think that employers should play some part in the provision of the pay, either through topping up to ensure that parental leave and specifically paid maternity leave equals the female's income prior to the birth. So income replacement is crucial. We know from evidence overseas that unless paid maternity leave reaches or is at the level of income replacement it will have class and gender consequences that will not be positive.

So as employers actually derive the benefits of females' participation in the labour market, I don't see any reason why they shouldn't contribute in some way to the scheme and the suggestion that they pay in terms of superannuation I think is a good start and I endorse the commission's recommendation there. Going to the payment level - and I've covered this just a little bit in terms of funding - but as a separate issue, the commission recommends payment of the maternity leave be at the minimum wage and, as I said, I think that is appropriate given the government's funding of the scheme. But to overcome further inequity and wage and income disadvantage we should be aiming for a scheme that provides for income replacement for women. Research overseas supports this quite unequivocally. The European Union's most recent amendments this year also recommended all member states pay at 100 per cent income replacement level and I see no reason why Australia should fall behind the European Union.

Eligibility. This, of course, is another area that requires a lot of attention. One of the aims of a parental leave scheme in Australia and particularly a paid maternity leave scheme is that we should be able to provide all working women with access to paid maternity leave and I think that's one of the recommendations of the commission as well. However, given the shape of the Australian labour market, we know that women work disproportionately in casual and part-time jobs and thus any criteria that excludes them from receiving paid maternity leave is the sort of criteria we should be paying attention to and trying to overcome.

So I recommend a scheme that has very broad and, as far as possible, universal eligibility. This may be pushing the commission a bit further than they had hoped to go. I also recommend a scheme that covers people - young women particularly -

who are employed under cadetships and traineeships and my colleagues are going to speak about that further. In Iceland, for example, one just needs to be economically active to qualify for the scheme. So consideration of the 10 hours or less is another area that I think we need to perhaps look at again.

My fifth point goes to the interaction with existing entitlements. One area of concern is how any proposed new scheme will interact with existing entitlements and existing labour law, whether these entitlements are by management discretion, collective bargaining or legislation and so I recommend the commission look at this very closely to seek ways of ensuring that in the first instance employers do not reduce their current commitments to paid maternity leave or parental leave in any way. That is, that they do not use whatever scheme is introduced to pay their contributions that they currently give. Further, I'd like to recommend that no employee in Australia is worse off after the introduction of a parental leave scheme in Australia and we will need to have some sort of monitoring process in place to ensure that that doesn't happen.

I suppose the third aspect of this interaction point is that we need to very carefully examine how any paid maternity leave scheme would interact with the current national employment standard of 52 weeks' unpaid leave and the proposed new national employment standards of up to two years' unpaid parental leave and the right to request flexible working arrangements. There seems to be some confusion about how a parental leave scheme could operate in conjunction with the National Employment Standard and I would like to be comforted by the knowledge that we would look at that very carefully. It may be that we need to have a separate piece of legislation that covers parental leave to ensure that there is no disadvantage or detriment to be caused by interaction with the National Employment Standard. As part of that, of course, it's not just for those employees of the Commonwealth, we need to also consider how state employees are going to interact with this. So the complexity of our schemes is something that we need to work through. I'm sure we can get there, but we need to be alert to those issues. I am nearly there, I'm sorry.

MS MacRAE: No, that's fine.

PROF BAIRD (WWG-USYD): Number 6, information and education are areas that we need to address, not just of employees, but of employers as well. As our own case study research in the parental leave in Australia study showed - and I think as the Californian experience has shown - it is absolutely necessary to provide the resources that enable the community and employers to both know the scheme and understand how it operates and we really need to make sure that that information is available. Number 7, complementary policies. These are the policies that I see as ones that are actually essential parts of any parental leave scheme. Again, level 2 of the parental leave in Australia study has shown that in organisations employees and managers really look at parental leave policies as being comprised of three

interrelated parts. The first part is the leave itself, the second part is the stay-in-touch policy and the third part is the return-to-work policy.

Furthermore, our research shows that many employees do not distinguish policy of, for example, 52 weeks' unpaid leave and company specific policies. In this sense employers are gaining from the public policy and it is reasonable, therefore, to ensure that employers continue to be part of the operation of any new parental leave scheme. So in the sense that it has been recommended employers be the paymaster and provide necessary information and infrastructure to support such a scheme, including superannuation, I highly recommend that and suggest we strongly endorse that policy. Where companies have paid parental leave schemes in operation already, it seems that despite some push back from employers in the developmental phases, once in place employers actually accept the policies and work with them and managers and employees alike are able to accept a parental leave policy and benefit from it.

The second two components of parental leave schemes are less well supported at the workplace level currently and I think should be enshrined as part of an overall parental leave scheme. Stay-in-touch schemes are generally less well organised and, as a result, there are often adverse consequences for employees and their employers when the employee returns to work. A stay-in-touch scheme is one way of maintaining connections, knowledge and workforce attachment and all those are in line with an objective of maintaining female attachment to the labour market. So a stay-in-touch scheme, I think, should be part of an overall parental - or a recommendation of such. I note that the UK have made some innovative suggestions in this regard and allow, if my memory is correct - and I can check later if the commission likes - they allow employees, if they wish, to return to work for a few days within the period of leave, which does not forfeit their own leave or costs them anything, but allows them to maintain that employment connection. Return to work in some flexible usual part-time capacity is commonly sought by mothers in Australia, and in many cases this has been organised without formal policies in place.

However, we have found in our research that access to such arrangements can be contingent on factors beyond the control of the employee, such as proximity to head office and the human resources department or seniority within an organisation. Thus, I think the commission would be wise to consider the way in which any new scheme will interact again with any NES right to request flexible work arrangements, and to ensure that both the most is made of a new policy and that women are not discriminated against or unfairly treated in terms of job allocation on return to work.

I would say that the same could be said for men if and when they begin to work parental leave policies in any large way. The final aspect of complementary policies would be child care. I'm not going to say too much about that because it's actually beyond the scope of this inquiry - only to note that once the government has

introduced a parental leave scheme and at the same time as we are going through major disruptions in our child care provision, this is a really important part of enabling women to both be mothers and workers.

Finally, I recommend that whatever scheme you introduced, as Australia embarks on a new period, and given the possibility perhaps that a staged introduction of any scheme, I strongly recommend that the commission endorse a process of evaluation, monitoring and research which would enable us to assess the gender implications and outcomes in terms of access, visualisation and efficacy of any scheme that is introduced.

MS MacRAE: That's terrific, thank you. There's a lot there. I guess one of the most critical things that I'd like to just talk to you about is the duration issue and why or indeed, on what evidence your view has been that it would be 26 and ultimately another 26 weeks of leave, and in particular whether that relates primarily to one of the three goals that we've specified in our report or something else, if there's another issue there that we haven't identified, and in particular, I suppose, one of the issues that we've been - and I'm sure you as a researcher have found it as well - that, as you say, the research is not definitive on these things. It's hard to find a specific point of reference for a very specific duration, but I must say, on the basis of the evidence we've seen, that is probably somewhat longer than we would probably have seen as a baseline.

PROF BAIRD (WWG-USYD): Right, okay.

MS MacRAE: So I'm interested in that, the reasons and the evidence, I guess, on those.

PROF BAIRD (WWG-USYD): All right. I'm just looking to my document here, and hopefully if I can't cover all of this in my answer, I'm happy to provide you with some of the work that we have done.

MS MacRAE: Sure. Thanks. That'd be great.

PROF BAIRD (WWG-USYD): In terms of the research on 26 weeks, in scanning the research that goes to infant, child and maternal health, I think that the evidence accumulating points to quite positive links between increased paid maternity and parental leave and a range of outcomes, reducing infant mortality, lengthening the periods of breast-feeding, ensuring that there is less infant or child sickness, such as diarrhoea, ear infections and respiratory tract infections, improving immunisation rates, improved child behaviour, reduced maternal depression and improved father engagement with the family should the leave be able to be taken by fathers as well.

Current indicators show that less than 12 weeks' paid maternity leave tends to

result in negative outcomes for establishing breast-feeding, infant health and mortality and maternal wellbeing, and I'm sure the commission has been well versed in those arguments. A period between 12 and 26 weeks seems to be less contentious but is not strongly advocated by any of the interest groups that I have studied overseas. It seemed in my interpretation of the research that researchers and international bodies - and here I'm referring to the World Health Organisation and other such bodies - seem to have settled on 26 weeks as the point at which the health outcomes for the baby and the mother are more positive than negative. So we get to that, almost a tipping point.

At the 26-week mark, reduced infant infection and mortality rates, improved infant and maternal wellbeing are recorded. An additional period of prenatal leave may also be necessary for some mothers, especially those in occupations and jobs that are physically demanding, and research overseas tends to support that as well. So it's from that that I take this position of 26 weeks as being perhaps a good optimum point to achieve - - -

MS MacRAE: Sorry. I was going to say, I think the commission probably agrees with you that that first 26-week period is critical. We might have a difference of view over whether it's appropriate that people use other leave to get there.

PROF BAIRD (WWG-USYD): Yes.

MS MacRAE: So that's a separate point, but it was really that second 26-week period that you talked about - - -

PROF BAIRD (WWG-USYD): Up to the 52-week, sorry. Yes.

MS MacRAE: No, that's fine. I think in relation to the evidence that you've cited there, much of it would be consistent with what we've seen and why we've recommended the 26.

PROF BAIRD (WWG-USYD): Yes.

MS MacRAE: It was really that subsequent 26-week period.

PROF BAIRD (WWG-USYD): I'm sorry. I missed that.

MS MacRAE: No, that's fine.

PROF BAIRD (WWG-USYD): Okay. The subsequent 26-week period goes to some research that suggests that at the six-month point, babies - this is research on child behaviour - babies and infants' attachments to their mothers and the development of their social skills starts to change. So there is some research, and it

may be contentious, I do understand, that it's the second six months of the baby's first year of life that really impacts on their later social development, and so if a parent can be around, that is beneficial.

However, there is a distinction, it would seem, in the research between mothers in that period of the infant's life who are working full-time and those who are working part-time, and most of the research seems to suggest that part-time employment does not have a negative impact on infants and that mothers who are able to combine both flexible return to work arrangements with their child-rearing responsibilities do that quite well in that second six months. However, they do need other supporting policies such as child care lactation breaks, workplace supports and the flexible return to work arrangements, and all of those seem to impact on mothers and their ability to manage both and the infants' health and wellbeing.

I've also read in terms of employers that many employers - you do get slightly different views on this, but in terms of employers, the New Zealand evidence seemed to suggest that one year was an appropriate period of time, and employers could manage the return to work and the replacement of an employee for that period of time, and in terms of employees, it was at about the one-year mark that women's attachment and future career was not negatively impacted, but longer than that, it started to impact negatively on women's employment prospects. So that's why I think in terms of sort of overall, we could be aiming for somewhere between 26 and 52 weeks in the longer term.

MS MacRAE: Just in relation to if we were to reach that aspirational goal, can I just better understand how you would see that in terms of the relevant contribution of business and government? Would you see that the government should be potentially extending that minimum wage period from 18 weeks out to 52 or whatever it was and that the employer would be asked to top up, or would you look for a pooled arrangement for some employer contributions, or how would you see that, just in relation to what it might imply for potential discrimination against women and all those other issues that you get into if you've got a bigger employer contribution, direct employer contribution?

PROF BAIRD (WWG-USYD): Well, of course, the funding issue is the trickiest one, I suppose; who pays for these leaves. If I can say that one part of me, not necessarily supported by research because there isn't that much research on this, interestingly - one part of me supports a strong employer contribution. Given Australia's industrial relations system, given the social settlement and the way in which Australia has evolved, and given that we are looking at this as a parental leave scheme which is firmly about leave from work, in principal I see no reason why employers should not be contributing to that scheme. Whether we make that compulsory or not is of course a political issue and I think I probably wouldn't want to go into that right here.

I understand that a government has some limits on how much they can pay, though at the moment I'd suggest they could afford the scheme that you have proposed, and I would like that on the record despite an economic recession or possible recession. I also think, and I have to check the data on this, that paying minimum wages would actually cover quite a few women in the Australian workforce at the moment up to income replacement because of their part-time and casual status anyway.

MS MacRAE: Yes, their status.

PROF BAIRD (WWG-USYD): So the women that were actually talking about who would need extra to top up to income replacement are probably women who are in more skilled occupations working for larger employers, employers who are able to fund and want to because of their business case reasons. So I suppose what I'm saying in total is that I don't see any reason why employers should not be contributing as well as the government to these schemes.

MS MacRAE: Just in relation to the eligibility question, I wasn't aware of the Iceland case, although perhaps I should have been in relation to the very minimal eligibility requirement they have there. I guess it's different though, in that, if I am remembering correctly, I think theirs is more of a social insurance type model. So what you'd get out of the scheme if you'd only been working for a day wouldn't be much. Our concern would be that if there isn't meaningful attachment, that you are really getting a sizeable benefit and that the possibility of sort of sham arrangements to qualify for some thousands of dollars is there, in our case. So there's reason to have a higher level or a higher hurdle. Having said that, we share your concern that one of the reasons that we have designed the scheme as we have is to try and ensure that we do make it broadly available without making it so open that it then becomes a meaningless test.

We have had some evidence from other presenters who have suggested that a seven-hour six-month sort of rule rather than a 10-hour 12-month rule might be a good one, and I wondered either if you're aware of the evidence or just from your feeling of your understanding of the evidence and your experience in this area whether that test might be a better one. The other alternative which we have thought about is a block of hours sort of test which a number of others have. I mean, the 10-hour 12-month rule is the New Zealand arrangement. Looking at our data, that seemed a reasonable sort of test, from what we were aware of, from the data we had and how many people you might be excluding. But we are looking at it, and I wondered if you had a view on that.

PROF BAIRD (WWG-USYD): Yes. So what were the two - - -

MS MacRAE: Seven hours and six months rather than the 10 hours and 12 months, with any employer, so not just with the one employer; or a block of hours, say, over the last either six or 12 months.

PROF BAIRD (WWG-USYD): Over a period of time. I suppose the other factor in this, which we haven't actually talked about yet, is that for those women who would not be eligible under whatever criteria eventually set, they are still able to get the baby bonus, that would continue. So it's not as if we're saying that women wouldn't get anything at all.

MS MacRAE: That's right.

PROF BAIRD (WWG-USYD): So that's a point worth noting I think. I haven't seen any research which actually states the number of hours which would be more appropriate or applicable and meet that need of genuine workforce attachment, which is what I think you're going to do. Just looking at some of the other countries, it would seem to me when you do a comparative analysis, and I'm looking at developed nations on the whole, that there is a huge variety in the eligibility requirements.

MS MacRAE: It doesn't help you a lot.

PROF BAIRD (WWG-USYD): So it doesn't actually help us. That's right.

MS MacRAE: I think, as you said, the fact that we have a different social welfare system underpinning it also makes for a different sort of analysis than we have here.

PROF BAIRD (WWG-USYD): I think that your suggestion, or a suggestion, that it not necessarily be tied to a weekly number of hours, might be appropriate, because of the variation in women's working patterns, and again sometimes that's beyond their control; you know, if there aren't the shifts available or if they're not being given the work in a particular week but they do have to work more hours at another time in the year, I wouldn't want to see them disadvantaged. So maybe a block of hours over any period of time might be a better way of doing it. But I think there are specific categories that need to be looked at carefully, and I'll defer to my colleagues who are going to talk about one of those categories, that we probably should consider.

MS MacRAE: Unfortunately, we are out of time already. But that has been very helpful, and we may well want to come back to you on some of the issues that you've raised, because you may have some data and areas that we'd be keen to pursue.

PROF BAIRD (WWG-USYD): Absolutely.

MS MacRAE: So thank you very much for today. That's great.

PROF BAIRD (WWG-USYD): Thank you very much.

MS MacRAE: If we could have the Women and Work Group from the University of Sydney, thank you. If you could introduce yourselves and any organisation you're representing and then some opening comments, and then hopefully some time for questions, thanks.

DR CUTCHER (WWG-USYD): Thanks, Commissioner MacRae. My name is Leanne Cutcher and I'm a senior lecturer from the discipline of work and organisational studies at the University of Sydney and I'm also a member of the Women and Work Group.

MS MILROY (WWG-USYD): I'm Talila Milroy. I study at the university of Sydney and I have a cadetship in the faculty of economics and business.

DR CUTCHER (WWG-USYD): So just to explain; Tilly and I, we have got a working relationship. We are working together on a research project which has been looking at the construction of motherhood and race, and Tilly and I have been looking at research into the baby bonus that was first introduced in 1912 and then the baby bonus that was introduced under the Howard government, and we have been looking at the way that the press, both the Koori and the mainstream press, reported both of those baby bonuses and the way that Aboriginal motherhood was kind of constructed by the press in relation to those issues.

So in the light of our research we really welcome very much the aim of the new paid parental leave scheme, which is attachment to the labour market, because clearly the baby bonus in 1912 and the baby bonus under the Howard government was a welfare payment and we're really keen to see a scheme that moves away from a welfare payment because we think that attachment to the labour market as well as the health and wellbeing of babies and their mothers are necessary aims of any paid parental leave scheme. So in the light of that we just wanted to draw the commission's attention to an anomaly that we see within the current scheme and it goes to the issue of eligibility.

What we want to do just in the next few minutes is talk about how we think that the eligibility requirement of 10 hours and 12 months disadvantages young indigenous women under traineeships; and we also want to make a related point to that, which is about the fact that it could also disadvantage young women who are studying at universities, because with the eligibility requirements for women studying at university and also under the traineeships they limit the amount of work that people can do to less than 10 hours, so we see a conflict there between those schemes and the paid parental leave scheme.

We also note that both of those schemes, the indigenous traineeship schemes and the paid parental leave schemes have the same aim, which is ongoing attachment

to the labour market. So we think that, given they both have the same aims, they should both have the same eligibility requirements. So I'm going to let Tilly talk now. Personally, I just want to thank Tilly for being prepared to share her own story, which sort of moves us beyond kind of our research into personal experience. So Tilly just wants to share that and then we'll make recommendations. Thanks. Thanks, Tilly?

MS MacRAE: That's fantastic. Thank you, Tilly. I can say we have had quite a number of personal presentations and it has been very helpful and it does help inform the debate and I think it's useful to ground us back in the reality of what it means at the coalface rather than talking the research. So thank you very much and we appreciate it. It's very often people who are in stages in pregnancy or have very young children, and making the time to come is very much appreciated, because we do know what a busy time and a difficult time it can be for some mothers as well. So thank you.

MS MILROY (WWG-USYD): Well, I'm on a cadetship which is administered through the Indigenous Employment Program branch of the Department of Employment and Workplace Relations and what they do is they cover your living costs. The government provides the subsidy and then your employer pays the wage for how many hours you work. You kind of organise your contracts with your employer, like, how it suits you. At the moment I work eight hours a week and then you do a two-week block in your holidays. Some other people will just work the whole time in their holidays and do no work, but they still get paid throughout the semester.

I am not entitled to any paid maternity leave except through the University of Sydney, but what I get paid from the university is my eight hours and that's not the full amount. I am not entitled to keep getting payments from the cadetship scheme. But I can't work - the eligibility says 10 hours a week and I work in the gaps in my timetable. There is no way I could do - it's only two hours more but there's no way I could even fit it in. Either side of my working I'm studying full-time, so I'm at uni or at work from 9.00 until 3.00 on average every day.

DR CUTCHER (WWG-USYD): Can I just butt in. The point of the eight hours for Tilly is that because she's in the Faculty of Science at the University of Sydney and they have a limit, they have a block of eight hours. They will allow students to have within their study timetable program two sections of four hours work a week. So that's the reason that Tilly has structured her work in our discipline in the way that she has. So there are two issues there really, I suppose: the reality is that the universities are stipulating eight hours maximum a week for students to work and also the way the cadetship works for Tilly is that because she's working at the University of Sydney she can only work that amount of time as well.

MS MacRAE: Right.

DR CUTCHER (WWG-USYD): So it's just more to make the point that currently under the current scheme Tilly has an entitlement to the baby bonus which is a welfare payment and that means, as Tilly said to me, "There's no incentive for me to come back, Leanne," which is a real shame because we've got a working relationship and the research we're doing we think it's really important, it's fantastic. Tilly said to me the other day, "Well, Leanne, I'll come back and keep doing it and not even get paid," and I said, "I don't know that that will be appropriate." The point is that under the new scheme, under the paid parental leave scheme, Tilly would be in exactly the same situation. So she would have to fall back on the baby bonus and in fact there would be disincentive for her to give up the baby bonus and to come back and study as a student and then try and get this eight hours a week work.

MS MacRAE: Is the eight-hour requirement that the university has because they're concerned if students take on too many additional hours that they end up not succeeding at their core role of being a student.

DR CUTCHER (WWG-USYD): Yes, I'm sure.

MS MILROY (WWG-USYD): They say that you're studying full-time, you've enrolled as a full-time student so you should be at university full-time.

MS MacRAE: Yes, the bulk of your time should be there.

MS MILROY (WWG-USYD): Yes.

MS MacRAE: Just as an example, if we were to change the arrangement to something like eight hours, would the 12-month provision still - would that generally suit a university environment?

MS MILROY (WWG-USYD): That's what I was going to say next was the 12 months - in my situation, I just left school last year, cadetships, contracts go for three years, so people in their second year of university would have been working a full year probably. But I didn't commence mine until June and that was not - like, I would have been ready to start at the beginning of the year but most cadetships don't even get advertised until March and so most students wouldn't start until mid-year. So if you're in my situation where you got pregnant early in the year, I've only been working for six months so I'm a bit more - other students would be in the same situation. So it needs to be shorter than that just to ensure people can get it. I'm planning on going back as well, so I think there should be some consideration about even though I might not have done 12 months, I would have done 12 months.

MS MacRAE: You're anticipating that you will.

MS MILROY (WWG-USYD): Yes.

DR CUTCHER (WWG-USYD): Tilly just made a point that hadn't really occurred to me before. The nature of traineeships and university degrees is that people are committed for - they are committed to taking a program of study which is over a period of time. So the point that Tilly makes is an important one, I think, because if we want those people to continue, which we do, then having to say that they must have already been in that particular program of study for 12 months doesn't recognise the fact that they will be continuing to study for the next three or four years. Will we just make our recommendations and then - - -

MS MacRAE: Yes, sure.

DR CUTCHER (WWG-USYD): So Tilly and I have got two recommendations: the first goes to the indigenous traineeship specifically and I guess we really just want to make the point that indigenous young women, in terms of their attachment to the labour market, I don't think we could find a group of young women in Australia that we would want to encourage engagement in the labour market more for their own ongoing wellbeing, for the ongoing wellbeing of their children and I think we should see that and present that as a positive thing and if young women in are engaging in these traineeships everything should be done to maintain that ongoing commitment to the traineeships and to the labour market. These are highly competitive schemes anyway, so a young woman like Tilly who has an outstanding academic record, she is making an outstanding contribution to our discipline so I would just welcome the change of the eligibility requirements so that people engaged in those traineeships, particularly indigenous traineeships can have paid parental leave under the traineeship.

MS MILROY (WWG-USYD): Can I just say, especially the cadetships that are combined with study, keeping the attachment to study and if you get paid maternity leave you can possibly - I'm planning on going back and studying next year, but not working. But if you can keep that attachment to study through paid maternity that's even better for indigenous women.

DR CUTCHER (WWG-USYD): If the eligibility was to stay at 10 hours, one way to get around that would be to count the hours of study and the hours of work as working time. So even though one part is unpaid and the other is paid, it's still work and would easily be more than 10 hours a week. Our second recommendation is that if a young person is not engaged in some kind of formal traineeship, they are actually limited to eight hours a week under the university's guidelines. So we are recommending that the eligibility requirement be reduced to eight hours a week or even less, if that was possible. So I understand from earlier comments that there's a recommendation on the table of seven hours and six months for eligibility and I

would say that Tilly and I would support that recommendation.

MS MacRAE: Okay.

MS MILROY (WWG-USYD): I think what you said before about the block periods of time is a good idea, since lots of people under cadetships work blocks in their holidays and not every week throughout the semester.

MS MacRAE: Yes, because that is another issue. Just in terms of that seven hours and six months, it's not a recommendation of ours yet, it's something that someone has recommended to us, just to make that clear on the record.

MS MILROY (WWG-USYD): Sure.

MS MacRAE: But we're certainly looking at the eligibility criteria and the block idea is one that we've looked at it. In particular we've had a number of people saying, "There's teachers, not just in universities but in school situations and things as well where what does continuous mean and would it cover holiday periods and things?" It's very difficult to come up with something that works here and I can see your points and they're very well made and thank you for bringing them to our attention. We will certainly keep them in mind as we wrestle with the eligibility issues. It's proving to be rather problematic. Having said that, I think we are still convinced, despite some of the evidence we've had, that we do need some eligibility test and that we wouldn't see - we feel we would undermine the objectives of our scheme were we to drop the work eligibility rule altogether.

DR CUTCHER (WWG-USYD): Can I just make a point there?

MS MacRAE: Sure.

DR CUTCHER (WWG-USYD): I guess my point on that would be I perfectly understand that and I think that you're right, that it would undermine particularly the attachment to the labour market goal of the scheme to not have some eligibility requirement. I think here though you've got scope because the eligibility requirements under these traineeships which have the same aim of attachment to the labour market, have exactly the same aim, they say eight hours work a week.

MS MacRAE: Yes.

DR CUTCHER (WWG-USYD): So there are already government policies and government schemes which put the eligibility at eight hours and so we think to bring those things in line would be perfectly legitimate without in any way undermining that core goal of attachment to the labour market.

MS MacRAE: Yes, for sure. In relation to you understanding of the traineeships generally, you talked about the Department of Science at the university having the eight-hour rule, is that common to other areas?

MS MILROY (WWG-USYD): That's every student, not just science.

MS MacRAE: Okay. Generally across Australia, do you know?

DR CUTCHER (WWG-USYD): We don't know beyond the University of Sydney.

MS MacRAE: I imagine if it's a Department of Workplace Relations cadetship they would have similar - - -

DR CUTCHER (WWG-USYD): The traineeships would be the same rules, but whether or not the university - the broader issue of students more generally, young female students who may fall pregnant. I don't know if those conditions exist outside the University of Sydney.

MS MacRAE: Okay, thank you.

MS MILROY (WWG-USYD): I know from my sister she studies in Melbourne and when she got pregnant during study her university had a provision to give support while she took time off from study, but I think just every university has different policies.

MS MacRAE: Yes. It was more in relation to the number of hours, if we were to consider the case that you're putting, we wouldn't want to find then that that there was another university that had seven and a half or something and we thought we were covering them all and then suddenly we weren't, so that was reason for that question. The other issue which I think will be pertinent to you which you haven't raised directly but you may wish to comment on, the commission had made a recommendation in its report about the possibility of a lower amount of payment being made to juniors and others that were on non-adult wages. We're rethinking that and we've had good reason to rethink that because of some of the issues that have put to us post draft. But would you have a view about the level of payment and whether the minimum wage would be appropriate for all women or whether we should be making any distinction for juniors and others that aren't on adult wage rates.

MS MILROY (WWG-USYD): I think no distinction. I think minimum wage is minimum wage.

DR CUTCHER (WWG-USYD): My feeling, just off the top of my head, would be

it would be inappropriate to draw a distinction because the assumption of junior wage rates is that juniors are living at home and largely being supported by somebody else. Whereas in this case the young person is a mother and supporting a child. So I think that they should be entitled to the same rates because the payment is - the scheme also has a goal of the welfare of the mother and the baby, so minimum wage would be the minimum rate in my mind.

MS MacRAE: Thanks for that. I think we've probably covered off the issues that you wanted to raise today, so unless there any further points - was there anything else you wanted to say? No, okay, thank you very much for that. That's fantastic.

DR CUTCHER (WWG-USYD): Thank you. Thanks for the opportunity.

MS MacRAE: We will adjourn now for lunch and come back at 1.30 and thanks to everyone here that has presented today, it has been terrific. A great morning. Robert will have a lot to catch up on.

(Luncheon adjournment)

MR FITZGERALD: Welcome to the afternoon session. I'm Robert Fitzgerald. I'm sorry I wasn't able to be here this morning. James, if you can give your full name, the organisation you represent for the record and then we'll have your opening comments and a bit of a discussion.

MR McDOUGALL (NCYLC): James Duncan McDougall, National Children's and Youth Law Centre. Do you have a copy of our follow-up submission? It should be November 2008.

MS MacRAE: Yes.

MR McDOUGALL (NCYLC): I won't cover that material again, I think it sets out reasonably succinctly our argument in general terms. What I thought I might do is make a few comments in terms of the context for that. To begin with though, just to confirm the centre is excited by and endorses the Productivity Commission's draft proposal. We, I suppose in general terms, would support the recommendations that the Sex Discrimination Commissioner and the Australian Human Rights Commission have made suggesting that there should be a review of whatever is implemented and that there should be resources committed to ongoing research monitoring and evaluation and also that there be provision for educational campaigns around whatever the final policy initiative is that the government implements.

Our initial submission introduced the idea that you could approach this subject from a child rights' perspective and to that extent our main focus was in fact on the rights of the newly born children that would in fact be the trigger point for the parenting leave provisions. Our particular concern that arises in relation to the context of the draft proposal is at the other end of the spectrum in respect of children and that is those children who are in fact themselves parents. Broadly we recognise that this will be a relatively small group, however, it is a group that I think we could safely say often misses out in public policy debate and for that reason we've tried to draw attention to some of the particular impacts that the proposal could have almost indirectly upon this group.

The context, therefore, is more generally government policy in respect of children and young people and the older age group from about 15 upwards. It extends a little bit beyond what we would normally be concerned with because for us we kind of opt out once they turn 18, but this is more generally an area that - for those young people who are still working through the transitions from childhood to adulthood we have some concern and do hear their concerns through our networks and through themselves. We remain critical in general terms of government policy in this area. It has evolved over, in particular the last 10 to 15 years in a way that we think lacks the recognition of the reality of the experience of many of these young people. The policy is clearly developed on the basis that it will take advantage of

and encourage the ongoing dependency of young people upon their families beyond childhood into adulthood and particularly during the period in which they are making the transition from the education system to the employment system.

Our concern about that is that generally that ignores the reality that sometimes that transition is not at all comfortable or even effective. In a broader context we think that the rate of the youth allowance and the government policy around the reality of how children come to leave home is inadequate in the policy context. I think to some extent the position we're in in respect of this policy with respect of potentially a smaller group who are in the process of making that transition to employment possibly earlier, that some of the same consequences are playing out. We do recognise that in broad terms the proposal would extend or would give them an entitlement that otherwise they may not have, in particular recognising the important provision of this leave entitlement for those in casual employment. There are a significant number of young people who's employment is at least casual in name, if not in actual nature and therefore looking from a policy perspective that has to be a welcome recognition.

However, we think that this provision is going to also continue to leave young people who are parents still in comparative poverty and at a particular disadvantage if they're compared with their adult counterparts. As was the case with our previous submission, it's largely an argument, it's not something that unfortunately we can provide you with the kind of economic data and statistics that I know is your meat and that's why, once again, as much as anything else, it's a call for some further examination of the impact of these proposals and that's why the Sex Discrimination Commissioner's recommendation is particularly apt. But what we do already recognise from the experience that young people describe to us and there is some, we would say, statistics to support this, that experience particularly of young mothers is one of particular disadvantage.

I just wanted to briefly refer to some statistics that have come from the Australian Bureau of Statistics, mainly on an article on teenage fertility which indicates that 91 per cent of teenage mothers are not married. 60 per cent of young mothers have no male partner when their baby is born and more generally 39 per cent of mothers in the age group between 15 and 24 are characterised as lone mothers, single mothers. So it's clear straightaway that there is a group that is, to a much greater extent than public policy would recognise, on their own. In particular there are some other statistics which may be relevant. Once again, I don't know enough about what it's actually like for young women who are in employment. But it's also clear that teenage pregnancy is more common outside the capital cities and it's also at a much higher rate among indigenous populations.

So any strategy that is looking at employment for indigenous young people I think needs to also consider that broader context of what is the benefit that you are

going to provide them if you place them in employment if they're not going to get the full effects of the stability that that would normally bring to this group. The other factors that have been recognised is of the experience for young mothers is often particularly dramatic and is something for which money is not always going to be a solution, but it is certainly going to be part of the picture, and that is that often young mothers have not completed their education so they are going to be disadvantaged in the employment market in any event. There is also increased risk that their medical experience is going to be harsher than it is for older parents and that postnatal depression is high risk for teenage mothers.

Another factor is that quite often teenage mothers experience alienation from their own family who might otherwise be supporting them and also from their peers and other groups within the community. So we're talking about a group who are going to be, at best, still accessing support services at a higher rate than other groups. The other issue that's of particular concern to us and this is something that we see in our own contact with young people is that this group is often the same group that are leaving home and they are often leaving home because of conflict within the family home. So there is no necessary sense that they are going to be able to continue to draw on the support of their family at that time.

The risk factors for teenage pregnancy include family situations with regular conflict, violence, sexual abuse, absence of father, unstable housing arrangement and often, interestingly, family history of teenage pregnancy along with all the other more obvious characteristics, some of which I have already mentioned, living in remote areas, low socioeconomic background or school performance. In its totality we would suggest that those young people who have been fortunate enough to gain employment are going to be lifted from the poverty that we would say the youth allowance is going to condemn them to, but still they remain in comparative poverty. Given the context of this proposal which does so much to address and recognise the importance of support to parents and, in particular, mothers. We would like particular attention to be given to how we can ensure the benefits of this proposal also reach that group. Thank you.

MR FITZGERALD: Thanks, James.

MS MacRAE: If I'm understanding you correctly, I guess ultimately in terms of the recommendations that the commission has made the main concern you have is around the proposals that we've got for junior wages and that there might be a differential for that group. I have to say that even ahead of receipt of your submission it's something that we've had our attention drawn to and it's fair to say that we do have it under analysis. So you can be assured that we are looking at that issue again and we think that we - I mean, many of your points today are sounding to that and will probably inform us further on those issues but it is certainly an issue we're looking at and given the strength of the case that we've had from a number of

participants, it's something that we think does need review. So rest assured that it is something that we do have clearly in our sights as an area we will certainly be looking at for the final.

MR McDOUGALL (NCYLC): That's good. I think generally it's an issue that's - this is a small part of the broader picture and the centre's own particular position is that we should be looking to phase out junior wages and replace them with competency based wage rates for young people as well in recognition that generally the impact for many young people is the same.

MS MacRAE: The other issue that we had raised by participants just prior to lunch, we had a young indigenous woman who was talking to us about her workforce arrangements that related to a traineeship but involved some work at a university as part of that and one of the issues she raised was that she has only just finished school and then taken on this as her first job. Did you have any views about the eligibility test, because that's another area that we're looking at? Just to fill you in, because I appreciate this is not your main game and you might not be across all that we have recommended, but we have suggested at the moment that to be eligible the workplace test would be that you would have to do an average of 10 hours of week for a period of 12 months.

We have heard quite a lot about how that might disadvantage groups and I guess it was highlighted before lunch that for young people in particular that 12-month test might be a relatively tough one and that potentially the 10 hours might also be - we've said an average of 10 hours, so it could be less than that in some periods but averaging 10 hours, that maybe that is not the ideal either, and not just from a youth perspective but from others we have been asked to look at that again. So I just wondered if you had any views around what might be an appropriate test to try and ensure that that group that you're most concerned for is given a decent look-in, I suppose, put it that way.

MR McDOUGALL (NCYLC): I don't have any particular ideas on that. The average would be preferable to I think looking for continuous employment because definitely the characteristic of young people's employment during that period is that it's chopped up quite considerably and they don't get the benefit of continual employment and also that often the nature of the hours that they work varies considerably, in general terms, I think. Yes, I don't think there's much more I can add. I can't think off the top of my head what other tests you could use.

MS MacRAE: Some other countries use a block of time, so they might say rather than having an average of a period over an average number of hours per week, it might be that you have to have worked more than 400 hours in the last six months or 12 months or something like that.

MR McDOUGALL (NCYLC): Yes.

MS MacRAE: The young woman that was presenting prior to lunch did mention that she felt that that might have made eligibility easier not just for her but for other young people that she knew that were in education.

MR McDOUGALL (NCYLC): Yes. Broadly, young people generally break up their employment and often travel overseas but I'm not sure that that's quite the same group that we're concerned about here. I think a surprising number of young people have actually clocked up quite a considerable number of hours of employment before they reach even 18 years.

MS MacRAE: But I guess it's possible that, as you said before, it's often chopped up and it might be that they get intensive work for a short period over a holiday period or around Christmas or something and then nothing for a while and then another intensive period.

MR McDOUGALL (NCYLC): Yes, and maybe it's about an alternative, cumulative total or an average total over a fixed period.

MS MacRAE: Yes.

MR McDOUGALL (NCYLC): Would you need to have the cumulative total over a period or could that simply be - - -

MS MacRAE: If we're looking at the rationale, why have we got the eligibility test there, what is it designed to do, we're really trying to find a test that will give us good reason to think that this person has a meaningful attachment to the workplace because of the objectives of the scheme; (1) is to allow the primary carer, usually the woman but not always, to have a period of time with their baby when they might otherwise not have the wherewithal to do that because they would otherwise be working, so really that objective requires that you would expect that in the absence of the scheme, there's a chance that they might not have that opportunity to be home. But the other goals that we have include things like workplace attachment, so while we've designed the scheme to try and encourage women to have a longer period of leave immediately after the child is born, we're also hoping that it makes it more attractive, given the current disincentives in the system, for women to be able to return to work.

MR McDOUGALL (NCYLC): Yes.

MS MacRAE: I should say not just women but primary carers more generally. But again, for young people, I guess the likelihood that they're not going to ever be attached to the workforce is probably quite small.

MR McDOUGALL (NCYLC): Yes, I think that's right, although there will be a group who I think will - they're going to miss out anyway. It would be great to think that this sort of debate could in fact lead on to a further debate around the youth allowance and how it's structured and its level at some stage because it is seen that we are providing more for young people who are participating in the workforce. It's a range of circumstances that prevent young people from entering the workforce - - -

MS MacRAE: Having that chance.

MR McDOUGALL (NCYLC): - - - and they need to be addressed as well.

MR FITZGERALD: As Angela indicated, we are looking at the issue of the differential treatment of junior apprenticeships and I think you may take some comfort from where we'll get to on that. Just one question, putting aside the fact that we are looking at it, in your paper you have drawn our attention to a number of international conventions. Whilst at the end of the day this may not be pertinent, I just want to explore with you your view as to whether or not the current proposal would in fact breach those conventions. As you say, we do have junior wages, we have differential payments for youth allowances. This is an additional benefit that's been provided. It's not technically age based; it picks up a group of people. So I was just wondering - as I say, whether or not this is relevant at the end of the day will probably depend on other considerations - but your view about whether such a proposal actually does breach the convention on the rights of the child and other conventions?

MR McDOUGALL (NCYLC): It's my own view that junior wages breach the convention and in particular article 2. So to that extent, yes, I think in its current form, it would. That's my own personal view.

MR FITZGERALD: Sure.

MR McDOUGALL (NCYLC): I think in other terms that the particularity of the experience of young people making transition to employment is less clear and there is clearly an argument for transitional arrangements. My view around the junior wages issue is that it provides an opportunity for employers to maintain rates that are clearly discriminatory because the person doesn't have the chance to have the same tests applied to them that adult employees would and that they would therefore, in large numbers, satisfy those tests and therefore be entitled to that greater benefit. I understand that this proposal is one step removed from that and that that relates, but it still relates to the extent to which government is recognising that experience of young workers and the fact that many of them do perform duties of considerable skill and even those that don't have a particular technical skill are still performing work that is of as much value as that of adult workers. I'm not sure if I can take it much

further than that.

MR FITZGERALD: Just to go back, your presentation clearly argues that the introduction of a full parental leave allowance for young people wouldn't have a perverse effect in terms of encouraging younger people to have children and so on. One of the things that happened after we put this draft out, we obviously consulted widely, and we had two very different reactions to that proposal; one was your reaction that in fact it was unwarranted; others were had we gone far enough, and I think this is predicated on the perceived perverse outcomes that accompany the introduction of the baby bonus, although the evidence for that is also very small, except in some communities. So suspect that there is still this concern in the community that these sorts of payments can in fact lead to perverse outcomes.

MR McDOUGALL (NCYLC): Yes.

MR FITZGERALD: I suppose I'm asking you to be very clear about it, that you believe that there is sufficient evidence to nullify those concerns.

MR McDOUGALL (NCYLC): Yes, I would, but I also recognise it's got to be something that has to be researched and assessed to find out what the impact does. Any new policy does produce, as you say, sometimes perverse outcomes that were never intended. My own experience of the decision-making powers of children and young people, once they're given the opportunity to exercise them, is that they exercise them responsibly and according to self-interest, but I mean, that's what we all do.

MR FITZGERALD: Sure, all right. Thanks very much for that, James. That's been much appreciated.

MR McDOUGALL (NCYLC): No worries.

MR FITZGERALD: That's good. Thanks you very much.

MS MacRAE: Thank you.

MR McDOUGALL (NCYLC): Thank you.

MR FITZGERALD: Angela, if you can give your full name and if you represent an organisation yourself, and then your comments and then we can have a discussion.

MS BUDAI: My name is Angela Budai and I don't represent any organisation. Thank you once again for allowing me the opportunity to present some thoughts on the draft report. This afternoon I want to talk about three things that the report addressed with reference to the three stated aims of the scheme, so child and maternal health, workforce attachment and gender equality.

Before I start, I do want to state that I have been a little bit concerned at media reports over the past six weeks that the government is thinking of shelving this proposal because of the current economic conditions. Australians have waited a very long time for the introduction of a scheme such as this. I hope that, while I know you don't have the decision-making powers to introduce it, that you would encourage the government to introduce this scheme because it is a scheme that will provide economic stimulus. As a parent of a 17-month-old son, I can tell you that none of the money that I have had since he was born has been going into savings accounts, and certainly I think that's the same for all of the parents that I've met since my son has been born.

So firstly the aim of the proposed scheme around child and maternal health, I was very pleased to see that in the draft report there was recognition that six months at home is the most beneficial for mothers and their babies. I do understand that while the scheme only provides for 18 weeks, that's to allow for some self-funding by parents which I think is important, but I also think that regardless of what the government provides to parents, they're always going to be the primary support givers, both financially and emotionally for their children. I do have some concerns about how that would work for contract workers.

Even thinking about my own situation, I used up all of my annual leave and long service leave when I took time off with my first child, and so now I'm thinking do I wait longer so that I can have more leave accrued in order to have more time off at home, or do I - having now been at work full-time for six months, and I am knackered. Let me tell you, I'm exhausted. It's really tough work. So I'm balancing do I take a holiday, or do I save the leave up. I think that, from my understanding of the way annual leave was introduced, it was so people could have rest and recreation. So granted you're going to feel tired after six months' work, you can take a holiday. So I think that by expecting that parents, particularly mothers, will take annual leave or long service leave, it makes it much more difficult after the first child to balance working and feeling healthy at work.

The evidence in the report talked about better child health outcomes with more generous leave, and it talked about an adequate payment. I'm just wondering - I

mean, I don't think that the minimum wage is an adequate payment; I would have thought average weekly earnings would be. But I also don't necessarily think that the government should be funding all of that. I get to it a little bit later, but part of my submission, I just use my own workplace and some tables outlining what my employer is currently contributing to our paid parental leave scheme and what they're going to be contributing under the proposed scheme and some different alternatives for how they may choose to approach that. But we'll leave that aside for the time being.

Secondly, looking at workplace attachment, again I go back to the eligibility for subsequent children. I'm just wondering what would happen under the proposed scheme if a woman who is - and I'm going to use my girlfriend sitting at the back there. She went back to work after her son and was pregnant with her second child, so didn't quite work for six months before she had her second period of unpaid leave. So what would happen in that situation? I know there were questions about whether or not it would count as continuous service, the paid part of it, and I would certainly be arguing that it should be, so that in a situation where you wait longer to have kids and have them closer together, you shouldn't then not fit the eligibility criteria for the second or subsequent child because you choose to have them close together.

The other thing I just wanted to talk about was in terms of the self-funding and using annual leave and long service leave. I've had 10 days off since I've been back at work for my son's sickness or my own sickness and just some carer's leave. Most people only have access to 10 days off for personal leave throughout the leave. So should I have more time off - my employer is pretty good and they'll probably let me have extra family leave days, but other people may then have to bite into annual leave. So if the next six months reflects the first six - and I really hope it doesn't, but if it does and I were to need another 10 days, that would be half of my annual leave entitlement gone just through caring for children. So I'm not sure whether that was something that you had taken into account when looking at the idea of parents self-funding.

I support the same level of pay from government to women at home and at the workplace. I know that there was some discussion this morning about that. I suppose the way that I'm looking at it is, the workforce attachment benefit would be the payment of super, and if there was a requirement of an employer to top-up to your actual income then you'd have the same benefit paid by government both to people at home and also to people in the workforce, but the extra carrot, if you like, to get people back to work is the top-up to their actual wages and also the payment of superannuation. So you wouldn't have a perverse situation of well, let's just keep the baby bonus. So there would still be some workforce attachment there.

The keeping-in-touch provisions, I support them in theory and certainly I think I was back at work for maybe two or three meetings during my period of parental

leave. But I think that if you're on minimum wages during that time and you do go back to work for a day - and I earn more than average weekly earnings, so I'm a high income earning when we talk about this - that I should be paid my actual pay for the day that I go back to work, because if I'm going back to work and I'm working, I shouldn't be paid minimum wages because then I'm kind of donating my time to my employer. So I think there needs to be some consideration for where people do use the staying in touch provisions, that they're actually paid the salary that they would normally be entitled to for that period of time, but that also they could have the choice to be paid for the day or to have that added on to an extension of the 18 weeks, so if you did do 10 days, that you might have 20 weeks and the extra two weeks would be instead of getting payment for that.

I also think it should be by agreement. I'd hate to think that someone felt like they were coerced into going back to work, particularly - I breastfed my son for quite a long period of time and there was a place at my workplace that I could breastfeed him in private, but I think that some workplaces - I know I met a bus driver yesterday who has a nine-month-old and I don't know how she would be able to go to work with a small baby. So I think there need to be some protections around agreement to that.

Finally, which I suppose is the thing that I'm most concerned about which is about gender equity. Going back to the self-funding again through leave, one in three marriages in Australia unfortunately breaks down. If you have a situation where you've got two parents and the mother has taken all of their accrued leave and let's say five or 10 years down the track there's a divorce in place and the father has a bank of leave, be it annual leave and long service leave that he hasn't taken to raise their children - and unlike superannuation where in divorce settlements the partner has some right to some of the primary bread-winner's super, there is no similar right to their annual leave or long service leave. So I think that's an equity issue that we need to explore. I don't have any solutions, I'm sorry, but I just think it's something we need to explore.

I have an ideological belief that annual leave and long service leave shouldn't be used for bringing up children. I don't know that there's any answer to that. I certainly used mine and I'd do it again, because we needed the income, but on a completely ideological level, I do have opposition to people having to use that to bring up children. Again, I don't have a solution.

Superannuation: I currently get paid 15 per cent super, which we've negotiated in an enterprise agreement in exchange for pay increases. So I'd hate to think that on a period of paid leave I'd have to go back down to 9 per cent super because that was the maximum. I think if we've negotiated it in exchange for something else, I think if you well understand that when you negotiate enterprise agreements sort of everything is on the table and you package things up. So I think that the maximum

of 9 per cent, perhaps you could look at that as being a minimum of 9 per cent and where there are other arrangements in place that could be up for negotiation.

In terms of leave accruals, and that was something you had asked for feedback on, if we want to normalise the taking of paid parental leave by a primary care giver, then the leave needs to be an industrial leave and it should accrue just like any other form of leave does. If you want it to be normal and you want people to think of it as a workplace attachment, it needs to accrue like everything else otherwise it becomes discriminatory.

Just a comment, that the tax system already benefits single income households. So I've heard people talking about the tax system, what it does or doesn't do. I know it was a balancing act for us about whether my income was sufficient once we pay for childcare and train tickets, whether or not actually going to work we're better off, and the answer is just. I do still think that despite the reservations that a levy, a tax on business would be a more equitable way to have a top-up because then you would remove any motivation to discriminate, which I know the hairdressers were concerned about this morning, so I think that if you had a levy similar to what you University of New South Wales provided in the first round of submissions that I think small businesses were taken out of that, or anyone with payroll less than a certain amount was exempt, that that would be a fairer way of actually making sure that this wasn't in the capacity to discriminate.

Finally, while I do understand that you don't see the purpose of this is to assist financially, it would be a perverse outcome if after the introduction of such a scheme, workers were worse off, and certainly in the tables that I've attached to the back of my submission, I've attached the most common employee rate - and also a team leader, because that's what I am, we would be worse off under this system. So I'd like to think that there could be some sort of no disadvantage test introduced.

What I've done is try and look at three different options: what we've got now, what we have with the proposed scheme if the employer topped up, and then if the employer kept what they've got, and what's interesting is that if the employer were just to top up and not to keep what they've got, there would still be a lower employer contribution than what I've got right now. So I think that there is a way of doing a no disadvantage test, where the employers still don't have the same monetary contribution that they are now. Thank you.

MR FITZGERALD: Thank you very much for that and thanks very much for the detailed submission that you've put in, and the tables, in particular, at the back, which we'll have a look at. If I can start there, if I might. In your tables, you've taken a number of scenarios. Our position is that we fully expect that employers would retain the current voluntary or collectively bargained arrangements, but may change the details of those, so that our expectation is that employers would not simply

absorb the statutory scheme into their schemes or vice versa. So there would be genuine additionality.

The unions, of course, have said to us that unless we prescribe that and have done what you've said, which is to introduce a no disadvantage test, then that option for employers to dumb down their contribution could occur. So we'll look at that as to what the best way is. But there are some difficulties for us around no disadvantage tests.

MS BUDAI: I think good employers won't be scared of it, because a good employer is going to do the right thing. I think it's only the cowboys that are out there that have got anything to worry about when it comes to a no disadvantage test. That's just my opinion. I think if they're going to do the right thing, they'll do the right thing regardless of what's in there, but it's to protect those that won't do the right thing.

MR FITZGERALD: We've heard that a few times, so we will take that on board. Can I just go back to a couple of points you've made? You've said that you didn't have any solution to this but I am intrigued by it. You've raised the issue of fathers having accrued leave. I suspect that this is well outside of our terms of reference, but I just want to be sure that it's outside of our terms of reference. Your concern was specifically in relation to what happens when the relationship breaks down, or were you making another point that's escaped me?

MS BUDAI: No. That came to me because I have a friend who's just had her second child, and she split with her husband 10 weeks before the baby was born, and she was working one day a week, so maybe the eligibility stuff I should have mentioned.

MR FITZGERALD: Sure. We'll come to that.

MS BUDAI: But seven hours is what she works, anyway. So she works one day a week and she's got no annual leave. She's got nothing, but her ex-husband who she took all the time that she had to look after their son when their son was born, he's got all this leave that he can go on holidays and he can have a rest or take the kids away. She's got nothing. So I just think that with the reality that one in three marriages do break down - and it's the same with my husband. We're still together. Hopefully everything is still strong, but he's got lots of leave accrued that I don't, because he didn't take it. He took it when our son was born so he could have time, but he's accrued it since then, and because we haven't had a family holiday, he's got all this leave and I don't.

MR FITZGERALD: It does raise the issue going back up closer to the issue under consideration by us, and that is you're right. We chose a period of 18 weeks at

minimum wage on the - firstly, having a look at the current patterns of leave-taking, and of course as you're well aware that 85 per cent of women are still at home at three months, and 77 per cent are still at home at six months. So we assumed that there was already a pattern in existence. So we weren't starting from zero when you were - the 18 weeks. I suppose the second thing is, we also did believe that there is an obligation, I suppose, on families to contribute in some way to the leave arrangements that they're entering into.

Your point is interesting. I mean, you're taking the point that annual leave, sickness leave, but particularly long service leave are, if I can paraphrase you, for a different purpose, and shouldn't be part of the equation. But I just wonder whether you can really explore that. I mean, is that a reasonable position, and if so, how would you sell that to the community, some of whom already say, "There shouldn't be any scheme at all," you know, and this is a private matter. We reject that. We reject the notion of, "This is a private matter," and we do support a scheme and we do support taxpayer-funded, but I suppose in our assessment, there was a bit of this notion of the employee would do certain things, the employer might do certain things, and the community at large through the government might do certain things.

MS BUDAI: The problem is it's a workforce attachment, so even if - my husband was more than happy to give me three weeks' leave to attach to it so that we could have the family income, but I was breast-feeding. So he's not going to be able to stay home with the kid and have me go to work because he doesn't have the body parts to be able to do it, so I don't know how you - as a family, you can't pool your resources.

I know that in the construction industry there's some talk about being able to carry with you your accrued entitlements in terms of long service leave around the industry, so I wonder if that's maybe something that we could look at in terms of people don't stay in the workplace for as long any more, and don't always accrue that. So maybe there's a portability scheme. I don't know that there's a simple answer, and certainly I do think that families contribute. Babies are expensive little things, and even if you are on full wage replacement, you're not going to be having the same amount of money that's disposable income after you have a kid than before.

MR FITZGERALD: Sure. By merely having the child and the disruption that that causes and the costs, you are in fact contributing. We recognise that. But it is in fact on our mind at the moment as to how we juggle these sorts of relevant - - -

MS BUDAI: I think in my submission the tables I've produced look at - there's a 12-month eligibility, and that in 12 months you could save four weeks' leave, so it was looking at an employee contribution of four weeks' leave, all the tables that I've put together acknowledges that there would be that four weeks. But I was able to take my four weeks at half pay. Not everyone can access annual leave at half pay, so, yes. I don't know that there's a simple solution.

MS MacRAE: There were two other things I was just going to touch on. One was just in relation to the super. I think our working hasn't been helpful there, and we never intended that the 9 per cent would be a maximum and that no-one would be allowed to contribute any more. It was always intended as a minimum. So what we wanted to do was mimic the SG, and say, "Well, that requires 9 per cent. This should be 9 per cent." The word "cap" was in relation to the fact that it would be on the minimum wage payment, not on your existing - - -

MS BUDAI: Right, okay, yes.

MS MacRAE: But you're certainly not the only person that has misread our recommendations there. So it was just a problem in my thinking and our wording.

MR FITZGERALD: Yes. It's our problem, not yours. I can assure you.

MS MacRAE: The other issue is in relation to the keeping-in-touch provisions, and I'd just be interested to explore that a bit more with you. The idea of that came primarily from the UK experience, where they do have a keeping-in-touch provision, and my understanding of it, and as we've proposed in our report, is that it would only apply where there is mutual agreement. So the employer and employee would both have to agree that it occur. But in relation to whether it's paid and at what rate and how, we've said that it would be a maximum of 10 days or could be, but in relation to how that played out, we haven't been prescriptive at all, and one of the reasons for that was that in our first round of hearings, many of the women that came and spoke to us were saying that they felt an alienation from the workplace, and that if they'd had an opportunity to come back and just basically touch base here and there, it was a reminder that, "I'm still around."

It was a reminder to the employer that, "I'm still interested," and that we were keen to keep that fairly informal because the idea was that it was really to the benefit of both parties: 1) for the women to feel comfortable about coming back again, because there is sometimes a hesitation as well, if you've been out, even if it's only six months. Your life has been turned upside down so much that you feel like it's a different person coming back to work and in many ways, because of the presence of a child, it is. So I have just been a bit concerned that some of the submissions that we have received, and yours also reflects this, a sense that this should be a much more formalised process and it's essential that there be an agreement about not just whether or not both parties are happy to proceed, but then formally what wage rates must apply and almost an expectation that if you're not coming in for long enough it wouldn't do, you'd need to be asked to come in for a day.

I think I'm speaking for the other commissioner here, but in my mind it was a much more informal arrangement and I think that is pretty much how the UK system

works. I would just be interested in your response to that.

MS BUDAI: I had two different scenarios. One was that we had a monthly meeting that is for all staff, so I went in two or three times to show off the baby and say hello to everyone and then - I am a first aid officer at work and my first aid certificate was due to expire and if I did the training before I came back from maternity leave I'd only have to do a single day, whereas if I let it expire I'd have to do two days. So I actually did a day's work and I got time in lieu for that. So when I came back to work I was then able to choose a day that I wanted to have off and take that off instead which effectively meant I was paid my full wage for that day. But when I came in for the meetings I wasn't paid and that was fine because it was my instigation, no-one had said, "This is what we're doing."

So I think that you're right, the informal staff probably doesn't even need to be prescribed because prescribing it you then get people like me going, "Oh, my God, what are they suggesting?" But if it's something like I did which was a full day of training that involved thinking and doing and participating, then I think I should have been paid my full rate and I was because of the way it was structured. So I really think it depends on how it's done and if it's a proper work day, like when I did my first aid training, you should get paid for it. If it's not a proper work day and, "There's a staff meeting, why don't you come in and hear what's going on and say hello and have a cup of tea," then I wouldn't have a problem with not being paid for it.

MS MacRAE: I guess that's ultimately the question and it's probably a matter of detail that we don't even really need to necessarily get into in our report, but whether or not, because it is a horses for courses thing, you can rely on the parties to agree on those things in most instances, is it necessary to prescribe a level of detail over what should occur in those cases to make it happen.

MS BUDAI: I suppose the corollary is, is it necessary to even include it in the report if it happens in a lot of cases anyway.

MS MacRAE: I guess that's part of it, it doesn't seem to happen in a lot of cases. One of the things that we wanted to do was to try and raise the profile of the possibility that it might.

MS BUDAI: I've been at my workplace for nine years and everyone that has had a baby had come in on occasion, if nothing else to show off the baby. So I am not familiar with people not doing it, so that's where I came from.

MS MacRAE: Thanks.

MR FITZGERALD: Just in relation to the accrued leave, and whilst you're taking

the paid parental leave that other entitlements should continue to accrue. I think there is an intrinsic logic in that and there is a slight problem and that is that the business community is already strongly opposed to the fairly modest contributions we're asking of them at the moment and that is in relation to the superannuation and paymaster function. I suppose just your personal comment, is this an area where one could forego seeking those entitlements in order to get the basic scheme up, because I suppose the greater the opposition from the business community the more difficult these schemes become. We understand why people are suggesting to us that those entitlements should exist, but they do come at a cost and at this stage our view would be that cost would not be borne by government.

MS BUDAI: Reluctantly I would say we need a scheme and, like, just do it. That's how strongly I feel about it, we've just got to do it but I think that with the review that you've built in, I think five years is too long, it needs to be sooner and I think that things like that should come with the review because I think having listened to the submissions this morning from the hairdressers' body some of their fears seem to me to be not grounded in reality and I think that if you took a couple of years to have whatever it is as the very basic to be set in, then you start talking about, "Okay, well, the reality is this, the reality is you've only had 2 per cent of your workforce affected by this, it hasn't cost people a whole lot of money. You can see the benefit. Now let's talk about leave accrual."

So reluctantly I think do whatever it is that we need to do to get a scheme up and running, but I think that we need to have a review in place to try and improve that scheme. My concern, I suppose, is that in the 1970s we got four weeks' annual leave and nothing has changed. In the 1970s we got unpaid maternity leave and nothing really changed. So my concern is that if we reluctantly say, "Just do it," whatever it is that you just do will still be here when my kids are having kids and I'd like to see something better.

MR FITZGERALD: Okay. Just another issue and that's on the second and third child issue and the workforce eligibility and I think you've indicated that our scheme at the moment could exclude women who return to work but then have to go off quite early because of a second subsequent child, some people have said that the previous attachment should count; in other words, the attachment prior to the birth of the first child should also roll over for the second and third. I suppose one of the things in these schemes is that one is trying to maintain a renewal of workforce attachment between children, people can choose not to do that, but the scheme is predicated on some sort of workforce attachment prior to each birth. If the 12 months that we've got, 12 months and 10 hours, is not appropriate I think you're suggesting it goes to at least seven hours.

MS BUDAI: I work a 35-hour week so if I was working one day a week that would be seven hours.

MR FITZGERALD: But what do you think is a reasonable period of time that should be expected for workforce attachment between births?

MS BUDAI: I think that's a really tough one because the older people get the closer they have their kids together and it seems, to me, to be unreasonable to say, "Well, okay, I don't meet someone and we don't decide we want to have kids at 35, I've then got a very short period within which my fertility remains such that I can have children." So I say I want three kids, I go bang, bang, bang, have them one after the other, the 15 or 20 years I've had in the workforce prior to that, only 12 months of that counts. Like, that just seems ridiculous to have a situation like that because then I suppose it may force people to have kids earlier and go, "Well, then I have to have at least two years' gap because I have to go back to work and I have to make sure," and it's the perverse situations where people do family planning around what individually they're going to be entitled to through government assistance.

So I'd hate to think that because someone put off having kids till later in life that they would be disadvantaged by not being able to come back. So I don't know whether you look at over the past five years that they've had X number that averages out at 10 or seven hours a week over the past five years. I mean, that might work but, you know, as I said about my friend back there, she wasn't planning on being pregnant when she went back to work, but these things happen.

MR FITZGERALD: We've had a lot of unplanned pregnancies in this inquiry, I've got to tell you. One thing I'm absolutely certain about is there's no certainty in - - -

MS BUDAI: She's private sector and has no paid maternity leave, so for her it didn't matter because there was no paid leave to have anyway. I know in my workplace if I went back to work and I was six months' pregnant, I'd still be entitled to the paid maternity leave because it counts as service. The other thing to look at would be to count it, not for accruals of annual leave and long service leave, but to count it as service for the purposes of - - -

MR FITZGERALD: Can I just clarify that for my own interest. If you were out of the workforce for, say, two years and then you returned to work and had a child, would any of that previous service count or does it only count because you returned within that two-year time frame?

MS BUDAI: For the accruals of leave, like annual leave, long service leave, sick leave?

MR FITZGERALD: For the voluntary paid parental leave?

MS BUDAI: I suppose what I would suggest is as long as you come back to work

for at least a day and that's what it is for me - like, if it's on maternity leave - if it's a career break, it might be a completely different experience.

MR FITZGERALD: I was just trying to work out the timing - - -

MS MacRAE: No, under your arrangements.

MS BUDAI: Under my arrangements?

MS MacRAE: Yes, under the voluntary scheme.

MS BUDAI: You can have up to two years of unpaid leave and then you come back for a day and you'd be entitled to it again.

MR FITZGERALD: Even if you came back after the two years you'd be re-entitled?

MS BUDAI: As long as it was within two years because the entitlement that we've got in our enterprise agreement is up to two years unpaid. So we've got 14 weeks paid, you can extend that through long service leave or annual leave and you can take all of that at half-pay if you want to. But any more than two years, it wouldn't be parental leave, it would be a career break which would be different because you don't have the same entitlements.

MR FITZGERALD: Does your continuity of service recommence at that point?

MS BUDAI: Yes.

MR FITZGERALD: All right, good. Thanks very much for that, Angela. It's been a terrific presentation, both written and verbal, so thank you very much for that.

MS BUDAI: Thank you for having me.

MS MacRAE: Thank you.

MR FITZGERALD: If you could give your full names and any positions that you hold in the organisations you represent.

MS NADAS (FDCA): Pola Nadas, Family Day Care Australia, policy manager.

MS JOVANOVSKI (FDCA): Anita Jovanovski, Family Day Care Australia, New South Wales representation.

MR FITZGERALD: Okay. If you can give an opening comment and then we'll have a discussion.

MS NADAS (FDCA): Firstly, we greatly welcome the report. Family Day Care supports in principle the introduction of the model proposed by the Productivity Commission as outlined in the draft inquiry report September 2008. The commission model proposes 18 weeks' paid parental leave, an additional two weeks' paternity leave payment at the adult minimum wage, subject to taxation, all of which is fully taxpayer funded.

What we would like to see in the future, however, is universal government-funded maternity leave for a minimum of 26 weeks, aligned to the breastfeeding benefits for children and also to ensure strong maternal attachment on the health and wellbeing of children. We would like to see four weeks' supporting partner leave, parental access to additional child care benefit for allowable absences for siblings to allow sibling attachments to be formed; financial incentives for workplaces to contribute to the costs of recruiting and training temporary relieving staff; family day care providers provide access to relief carers to maintain business continuity through the development and funding of a relief carer system which is mandated through the national regulatory standards; the introduction of family day care tax benefit C, an allowance which compensates self-employed home based carers who have their own young children and lose income because their own children hold unfunded occupied places; the provision of alternative options for parents who wish to extend their leave beyond six months, for example, a savings incentive scheme with government co-contribution and/or HECS loans and government allowances for contract, casual and self-employed workers which are equivalent to the leave and super entitlements of employed workers. They are the things that we hope the Productivity Commission gets to over the next 12 months to two years.

MR FITZGERALD: You are obviously an optimist.

MS NADAS (FDCA): I am. I was really impressed by the previous presenter, particularly in relation to just getting a scheme in place, and I think that what the Productivity Commission is doing right now is very much aligned to what we want

to see. We want to see it there and we want to see maternity leave in the Australian public space for children. Would you like us to go through this whole thing? I'm assuming you have read it as well.

MR FITZGERALD: No, not through the whole thing. If there's any other points that we've got, we can raise questions. Would you like to make other comments?

MS JOVANOVSKI (FDCA): No, not at this time.

MR FITZGERALD: Can I just go back to one thing, and it's obviously very peculiar and very specific to your particular sector and industry: that is, you've got here that "family day care providers provide access to relief carers to maintain business continuity". I'm sure you did raise that in the original submission which we haven't dealt with but I'd just like to canvass it again; just explain to me what occurs. If you currently have a child, what happens to the business arrangements for a family day carer? What actually occurs at that point?

MS NADAS (FDCA): Every stage is different with relief care policies. Some state governments support relief care provisions for family day carers and others are not as supportive in their structures. Where a carer becomes pregnant and decides that she would like to take maternity leave, she is often dependent on a range of other people to try to facilitate that process. The structure of the contractual arrangement between the carer and the coordination unit is not very clear at times around whether or not that carer is employing the relief carer for the six months' maternity leave, whether the scheme is employing the carer, it's very hotch-potch. So I think that what we would be looking for is a very standardised national approach to how relief care occurs and supports a family day carer who wants to continue to provide care to the children she has been caring for. Often those families - I think Donna Evans who presented last time gave herself as an example. She had four families using her care and they tried to maintain continuity of care, and the families that she's caring for are very dependent on that particular service. They want to keep the siblings together. They want to have that particular carer. So while those families can take some leave themselves and look after their children for a short period of time, if a carer wants to take maternity leave of three months, she seems to feel very much under pressure or feeling like she's doing the wrong thing by the families that she's working with and the children she's already formed attachments with, so there's a lot of tension I think in the environment.

MS JOVANOVSKI (FDCA): The children that the carer was caring for - not her own children but the other parents' children - they often have to go into alternate care and often there's not enough vacancies with an alternate carer to care for that small group, so the children are separated and divided. Then the carer herself, after having her baby, decides to be off for a three to six-month period, is bringing those children out of an environment that they have settled into, back into a home environment, so it

can be quite unsettling for a group of children and families because they have to do all of that, where with bringing in a relief carer or having a national system like Pola is suggesting, the relief carer would come into that home and care for those children in that home environment, even while the main carer was caring for her own child. That group was still kept together as a group with a relief carer coming into care for them.

MR FITZGERALD: Just explain to me how the funding occurs for a family day carer. The government makes the payment or do the parents make the payment?

MS NADAS (FDCA): The parent. The government pays the parent's child care benefit, the child care tax rebate, and then the parent pays - - -

MR FITZGERALD: So 100 per cent of payment comes from the parent to the business?

MS NADAS (FDCA): Yes.

MR FITZGERALD: So if you were to have a relief carer in, that business would in fact employ that person. If it was my business and I was the family carer and I went off on leave and I brought in Angela as a substitute carer, the payments would still come to me and I would then pay Angela as my employee or does she in her own right establish a family day care business?

MS JOVANOVSKI (FDCA): In some states, that would be the case, that the payments would come through the main carer to the co-carer. Within New South Wales, we have quite a few coordination units here that actually have relief carers registered with the actual coordination unit, so they would have a handful of carers. In a situation like that, one of those carers would go in, before the main carer went on leave, build up a relationship with the children, attend playgroup, and then would go in and that way they were paid through the coordination unit that way, so there's a couple of different ways that it happens unfortunately.

MR FITZGERALD: What would you expect the national scheme to look like? Just explain that again to me; that there's a right for a carer to bring in a co-carer, but that already exists primarily. Is that the issue?

MS NADAS (FDCA): It exists to different degrees. It's very variable nationally and the requirements of the co-carer are very variable nationally. So what we're looking for is a consistent approach to ensure it happens nationally across the board, for every carer in every state in every scheme, that there is a process in place that supports the home based sector with relief care.

MS MacRAE: Are there regulatory barriers that mean that that can't be established

at a state level? I'm just wondering - I mean I would imagine that for most family day care providers they're not operating in more than one state. So as long as their own state got their act together it wouldn't matter. So I guess the first question is what if the national scheme didn't turn out to be as good as some of the states that might have their act together slightly, which is one thing. But the other thing is if some states are doing it well and others are not is it because there's regulatory barriers in some states that there aren't in others or is it a matter of will or what's the - - -

MS JOVANOVSKI (FDCA): Yes, within New South Wales and in 2004 when we last did our regulations, and they're currently under review, we actually had relief carers put into those regulations so that it's fully supported.

MS MacRAE: Okay. So that's quite new here?

MS JOVANOVSKI (FDCA): Yes.

MS MacRAE: Yes.

MS JOVANOVSKI (FDCA): Within this state. But some other states don't have regulations, and to that degree one state actually doesn't have regulations. So that's where it becomes difficult nationally.

MS NADAS (FDCA): We're looking for consistency and at the moment COAG is having a lot of conversations around reforming the child care sector. We would like to see this in the national standards nationally, so that links to maternity leave is also within the sector, so it's in place.

MS MacRAE: One of the other issues, and this is a completely separate issue, but one of the things that you raised in your submission generally but you didn't mention at the beginning was the possible extension of the eligibility to grandparents that take over a caring role.

MS NADAS (FDCA): Yes.

MS MacRAE: We have actually heard recently from the Victorian Child Safety Commissioner about the issues around grandparents that do often take - well, in some instances take prime care for children where it's not an adoption as such and it's unexpected and very traumatic, from a couple of the cases we heard about. Is that something that you - I mean I was surprised to see it, I suppose. I just wondered if it was - raised it because it's something that your members have come across on a frequent enough basis, I guess, that it's top of mind for you?

MS NADAS (FDCA): I think within our sector - my understanding is that

nationally it's fairly frequent that the carers who are looking after children during the day, the primary guardian who's dropping the children and collecting them, is actually the grandparent. The grandparents are stepping in for a range of reasons. It can be marital failure, it can be depression of a parent, a whole range of reasons. But most of the time we're just seeing grandparents trying to step in. The fact that people have children later and later in life makes some of the grandparents a lot older and so they fall back on child care during the day as their way of coping with their own grandchildren as well. It helps them manage that part of their family life better. So yes, it is becoming more frequent.

MS MacRAE: Right, okay.

MR FITZGERALD: But I suppose one of the concerns for us at the moment in this is the scheme is not designed to be an additional subsidy in relation to child care per se.

MS NADAS (FDCA): I understand that.

MR FITZGERALD: In other words the scheme itself is trying to be around the ability of the parents or partners to be able to take extra time off. I suppose our concern has been that whilst we understand that grandparents are playing a much greater role, on the other hand we actually want to keep the focus of the scheme where it is. I suppose whilst we can now recognise that there are circumstances which we will need to deal with, as Angela said, where a relative takes over the permanent and primary care of the child, that should be acknowledged, there are issues around indigenous communities where kinship care is an alternative arrangement, traditional parenting arrangements. I suppose our concern is how far do you go beyond that to general grandparenting?

MS NADAS (FDCA): If I remember what you've written here I think it was more around where a grandparent takes prime care.

MR FITZGERALD: The permanent primary care.

MS NADAS (FDCA): Yes.

MR FITZGERALD: So it's not a situation where the mother is available but chooses to return to work. It's where there has been a transference of permanent care to the grandmother. That would fit within the first category that I spoke about.

MS NADAS (FDCA): And where the grandparent obviously may still be working too, part-time, full-time - - -

MR FITZGERALD: Sure. Well, they would only be eligible for that if that was

the case, yes. In terms of the eligibility criteria, we've obviously extended it so that a family day carer would in fact be eligible because they're self-employed or are a contracting role. We've put in the fact that they've got to have been attached to the workforce for 12 months and demonstrated that, you know, they're in the workforce for more than 10 hours. It would strike me that that's not a difficulty with a baby day carer because that's what they do every day of the week. But are there issues or concerns about the eligibility criteria that we've set as it affects your members or does the 12 month and 10 hours work well enough for your members?

MS NADAS (FDCA): I think that, in a similar vein to the previous speaker also, you can't control when women are going to have children.

MR FITZGERALD: Sure.

MS NADAS (FDCA): For a range of reasons. I think that if a woman has been contributing to the workforce for X number of years, whether she chooses to have the children close together or further apart should be a matter that's supported in either scenario. So I think that I would prefer to have a range of tests that allow for women who are working for a long period of time before they have their children as much as women who choose to have their children when they're younger and have a greater span of years between consecutive children, I suppose. I think it's a personal choice.

MS JOVANOVSKI (FDCA): I think if you are able to take into consideration - I mean they may just have come into family day care within that period, six-month period or 12-month period, but if you're most certainly able to look at what their - you know, their work, their span of work previous to that, you know, they could have well be working somewhere for many years or a few years within the industry or outside the industry but still been putting a lot in. If that could be considered as well?

MS MacRAE: Yes.

MS NADAS (FDCA): Over two million women or two million people in Australia are contractors today. The casualisation of work is phenomenal. So I don't think that it would be fair to have those sorts of limitations there.

MS MacRAE: I was interested to in your preference for four weeks supporting partner leave in the context, obviously, of an extension in your preferred model for 26 weeks for the mother. I guess it's somewhat unusual only in that most people who have gone for further partner leave have usually gone for even a further extension for the mother before suggesting more leave for the partner. I'm just wondering on what basis you see the validity for four weeks for the partner and how important you see that as an overall part of the scheme?

MS NADAS (FDCA): We see the 26 weeks as primary objective for women. The four weeks' partner leave we believe is a valid request for the simple reason that often children require a lot more than just six months' parenting. If the child is to be breastfed - and women choose to breastfeed a lot longer than six months, often - we just believe that this gives the family an opportunity to do bonding, attachment with the male partner as much as the female. We just felt that a four-week time period was a better to do it.

MS JOVANOVSKI (FDCA): And especially if there are siblings and other children and things like that.

MS MacRAE: Okay.

MS JOVANOVSKI (FDCA): Often if there's difficulty with that birth or that child, you know, within those first six months. There's often - you know, the four weeks really is minimal to support and attach and to do all those things.

MR FITZGERALD: Can I just ask a question about the industry itself? I may have asked this in the first round. What's actually happening to the number of carers around Australia, is it decreasing? I had a suspicion that in the first round people were saying that there's actually a decline in the number of carers being supported by governments. Is that so or not really?

MS JOVANOVSKI (FDCA): For New South Wales probably about two years ago there was a slight decline in carers. We just believe that was with all the new legislation that occurred, the OHS and a number of other things sort of all came at one time span. But currently now there actually has been an increase and we actually have not only just maintained but our carer levels are actually growing. That has definitely been New South Wales. We're about just about 5000 carers alone in this state registered with schemes.

MR FITZGERALD: The fluctuation in numbers, is it controlled by the government in any way or is it - in other words, if you want to become a family carer is that relatively easy provided you meet the requirements to be able to be - - -

MS JOVANOVSKI (FDCA): Yes, it is uncapped at the moment.

MR FITZGERALD: It's uncapped.

MS JOVANOVSKI (FDCA): Yes, it is. It was capped a few years ago. We were capped for many, many years, and that's when long day care centres actually boomed and there was a lot of growth there. But then we have been uncapped now I think for three years, Pola?

MS NADAS (FDCA): May 2006 we were uncapped.

MR FITZGERALD: Right, okay. Subsequent to that occurring, what's the issue between demand and supply? Is there a large amount of demand that can't be met by family day care or does the system, because it's uncapped, end up allowing a reasonable level of demand and supply being met?

MS NADAS (FDCA): In the 90s, long day care became uncapped. Family day care was capped. At that period of time, parents had a one-to-one chance of finding or taking either family day care place or a long day care place. Over the next 10 years, that decreased and family day care now makes up about 8 to 10 per cent of the marketplace in placements. So parents now have only got one chance in 10 of getting a place with a family day care, and the plus for parents is that it means that all their siblings are in the care of one carer.

If the marketplace is capped again, what would happen is that that ratio of between eight to 10 per cent will shrink again for the simple reason that the long day care market - unless the long day care market is also capped, of course - we would like the reverse to happen that we get them capped; we can grow for a change. 10 years even would be nice, but that's not going to happen. I don't think so. But it's an interesting dynamic in the market at the moment. What's happened is that demand for family day care has stayed fairly strong. Unfortunately most family day care schemes often have waiting lists, whereas long day care in the same region can be half full, and parents are just waiting to get into a professional carer's home.

MR FITZGERALD: In New South Wales or nationally, what's the average number of children that a family day care is likely to have care of?

MS NADAS (FDCA): It varies state to state. New South Wales, the ratio is one to five, under school age. Seven is the maximum in any state. Northern Territory is one to five. Western Australia is one to five if the carer has one child attending preschool. Tasmania is one to five if the carer has a certificate 3 or higher degree, and in other states, it's one to four.

MS MacRAE: This is a totally dumb question, but why did you have a cap? What was the rationale for the cap? It sounds like the market was going along and then it got totally distorted and now it's still distorted.

MS NADAS (FDCA): I think at the time the cap was put on family day care because the government had a policy of moving back and out of funding the child care industry. They wanted the private sector to move in. They wanted the private sector to provide as much care as possible. They removed operational subsidies from the long day care sector at the same time as they capped family day care. They capped family day care because they were also providing operational subsidies for

the coordination units that manage and monitor carers. So if they allowed family day care to keep growing, they would have had to pay more subsidies for the monitoring and management of carers. Because they wanted to shrink their contribution at that level, they capped family day care and took off away from long day care.

MS MacRAE: A tangled web. I think it's politics.

MR FITZGERALD: Are there any other questions you have, Angela? Are there any other points in this submission you'd like to make at this stage that we haven't covered?

MS NADAS (FDCA): No. I just want to say that I really want to see maternity leave process in place. I understand that the commission is under a lot of pressure from all ends that employers are very concerned at the moment in the economic environment we're in, but I think that once in place, it will be a fantastic place to start from. I also would highly recommend that research is done year to year on it, and it's revisited a lot faster than a five-year period to make sure it's effective and working well.

MR FITZGERALD: Thanks very much for that. That's terrific.

MS NADAS (FDCA): Thank you.

MR FITZGERALD: Do we have Katherine Vial here at the moment? No? We don't have Gillian at this stage either. All right. We'll take a break at this stage. We're scheduled to resume at 3.30 but should Gillian Calvert or Katherine turn up, we might start a little bit earlier. Good. Thanks for that.

MS VIAL: I can't emphasise how important it is that we have more babies. The population hump is around 60. It should be at birth and gradually declining as the years go by. How we got to this state where we've got a hump in the population that's just moving through and there's a decline in babies being born in the younger years is probably our own problem. What we have to do is have more babies so that we can get the economy going again.

The Australian government Productivity Commission draft report, Parental Leave for Parents with Newborn Children, on page 5, recognises the need, strong support and sustainable economic growth as the population ages. We must change the population demographic from a hump around 60 years age group to a gentle slope from left to right with the highest population density at conception, with a gentle fall as the graph approaches 120. We are living longer, but we're not productive.

We need to support qualified women in the manner they have been refined to pursue motherhood by means testing against her degree of training and ability and the costs to maintain this. Unless we are education-savvy, means-testing women, there will be no incentive to educate women. Darwin, around 1900, said, "When we educate women, we have a double effect, educating and lifting the standard of life in society." We must pay women at their education level and their training level, and also recognise disability and current education being undertaken and participation in the workforce.

For example, a mother should receive benefit at the same level as a teacher or nurse. A mother of a handicapped child should receive payment at the rate of an occupational therapist or physiotherapist. A psychiatric patient mother should receive benefit commensurate with a psychiatrist. An occupational therapist of a child who is not handicapped should receive payment at the rate of an occupational therapist. A doctor should receive payment at the rate of a doctor. According to qualification, you should receive payment. Accreditation should be given for the role required, the training completed and the training undertaken and the participation in the workforce. In the interests of harmonious society, every child should stay in the full-time care of at least one primary caregiver until their seventh birthday, when they commence instruction at school. "Show me the child until their seventh year and I will show you the man." Children need the world interpreted for them by a trusted adult. This relationship will last for life and be a strong foundation. When there are three children under five or five children under seven, consider the option of two parents on leave, ideally mum and dad, with the option for an uncle or aunt at least until the youngest is seven years old. Consider part-time work resumption when the youngest is seven and full-time work resumption when the youngest is 12 and all adults back to work when the youngest is 18. Which adult and when they go back to work should be negotiable. The cost of a family support

package should be two-thirds of the gross domestic product; employer tax incentives through pooling and direct payments from the ATO, and should negotiate paid leave, and unpaid leave negotiated. Superannuation, self-employment status, HECS, parental loan contribution and welfare should be negotiated.

"Children benefit from at least six months with their mother," page 223 of the draft document. "We need to relieve financial pressures on liquidity-constrained families," page 1.1. "Babies and young children deserve a good start to life," page 1.10. Indeed, we need to nurture families. Business benefits by attracting and retaining talented employees, protecting significant investment in training and development, improving staff retention and turnover and supporting family-friendly practices in the workplaces which keeps skilled workers. "Families are failing through lack of funds," 5.23. The supporting family-friendly workplaces to keep skilled workers is referred to on page 7.8. "The present scheme of parental paid leave costs \$527 million," page 2.34. Even at a suggested cost of \$166 billion, these are both under value. This is my guess at the figures, and I'm by no means an expert, but if you factor in an average projected salary of 70 K per person, we would be looking at a GDP of around 1078 billion. Business can always work with figures, so aim high.

The commission proposal is 1.5 billion or 26 per cent of tax revenue with proposed care focusing on the first two years of the child's life. I think this is way, way under what we should be looking at. This is from page 13.1: the bottom line of this report is expressed on page 5.34 and 5.6. Women who entered the workforce between 1978 and 2008 should be encouraged to pursue their vocation, be it in the workforce or motherhood, to maintain the size of the labour employment workforce, participation and other labour market benefits. While encouraging these women to work and not retire, we should be encouraging mothers in motherhood to build a projected workforce. Further consideration of education and employment of retired and professional workforce providing scaffolding in the workforce to provide incentives where appropriate is also something that could be considered but possibly not in this report.

Occupational therapists and health professionals, as well as teachers, educators and facilitators need to tactfully and accurately assess skills, talents, aptitudes, resources and abilities and be careful not to dampen the enthusiasm with overload. That's to get the rest of the population, not the ones that are employed, not the mothers, but our pensioners and disabled back into the employment workforce. That's possibly not covered in this report area.

The option for mandated paid parental leave with the option that the primary caregiver be nominated for seven years is no necessarily the mother or the father, page 1.7. This idea is not new. In response to Swan, Gillard and Macklin 2008, it requests to explore ways working mums can balance work, family and the primary

caregiver. The consensus from my asking questions was get a dad or an uncle at home to help, or an aunt.

Finally, families will pull the economy through the next 20 years. Give families two-third of GDP, at least 212 billion by 2020. That's possibly again a gross underestimation.

MR FITZGERALD: Good.

MS VIAL: Thank you.

MR FITZGERALD: Thanks very much, Katherine, for your presentation and thanks for having gone through the report with such detail. It's obvious that you've read it and been able to quote from it extensively. Can I just ask a personal question: you're a mum of - - -

MS VIAL: Two.

MR FITZGERALD: - - - two children?

MS VIAL: Two adult children.

MR FITZGERALD: When you had those children, were you entitled to any leave at that time or what happened at that stage?

MS VIAL: I was a student. I'm still a student.

MR FITZGERALD: Are you? Right. Were you able to take leave off and time away from your studies?

MS VIAL: I could defer for a year, a maximum of two years.

MR FITZGERALD: In your presentation and your submission, you've indicated that you think parents should be able to stay at home till the child is seven years of age, which is a lot longer than our proposal. Why do you think that so strongly?

MS VIAL: Because, as I said in my speech, "Show me the child until the seventh year and I'll show you the man," the adult. We have in our society a lack of harmony. Our children don't know their parents, their grandparents, their uncles, their aunts. They're stuck in child care without the same adult for the first seven years and this discontinuity of caregiver is very detrimental to our children.

MR FITZGERALD: Okay.

MS MacRAE: I guess in terms of supports that are available for those families, we've obviously been focusing primarily on leave from the workforce and your contention would be that for those first seven years, that wouldn't be the priority, that the priority should be that those people should be home. Obviously where you've got a situation where you might be lucky enough to have those family supports around you, they would be there to assist, but what about those families that don't have that sort of support?

MS VIAL: They may engage adult uncles and aunts that are not necessarily the extended family or blood relations. A lot of young people these days, the young women are single and they have, say, five or six children with different fathers and this would fit in nicely for them. They could choose the husband that they want to be dad and they could be married in the church and then the various uncles could pool their income and resources and child care. What we need is that it becomes acceptable that this occur.

MR FITZGERALD: Katherine, in relation to the comments you've made, some people would say that certainly women and fathers need to be able to spend some time away, but there is a need for child care and formal child care facilities when people return to work. I'm just wondering whether you have a view about formal child care.

MS VIAL: With big families - and what I'm looking at, up to 21 children in a family - - -

MR FITZGERALD: That's very large.

MS VIAL: - - - because we have so many families that are small or no children or single and children, a maximum of 21, and whatever up to that they can manage, I realise when you've got a lot of children of a young age, and you've got no adult or older child that's educated, looking after those children, they tend to complicate their own psychology. They tend to develop patterns that are not the ones that their parents know and they're usually confounding, they don't work.

MR FITZGERALD: Angela, have you got any other questions?

MS MacRAE: I don't think I've got anything else that I wanted to raise.

MR FITZGERALD: We recognise you believe that the scheme should be targeted to increasing the number of children in society as a whole. I suppose what we've tried to do is have a scheme that allows for greater choice by women and husbands and fathers, rather than try to promote either more children or less children.

MS VIAL: I think we need to promote more children. We must. Unless we get

more people coming into our society at the base level and coming through and building up in 12, 20 years' time we're going to be even worse than we are now and at the moment we're facing a crisis. We've got a maximum of older people and admittedly they're very fit but for how much longer? Hopefully they'll go right to the end, fit all the way. But we're not getting the basic from conception through to the birth, through to the early child years, through to the early school years, through to the junior school years, the high school years on to university - we've just got a depletion in the population.

MR FITZGERALD: Okay.

MS VIAL: We need to make it economically viable for women to have babies. It's not a matter of choice, it should be compulsory.

MR FITZGERALD: I'm not quite sure the Productivity Commission will go to having compulsory children. Sometimes I'm not sure that having voluntary children is a good idea. All right, Katherine, thank you very much again for that presentation and for taking the time to come down and present to us in person. We appreciate that very much.

MS VIAL: Thank you.

MR FITZGERALD: Gillian, whenever you are ready, we're running ahead. You're the last cab off the rank on the last day of our hearings.

MS CALVERT (NSWCCYP): Saving the best until last.

MR FITZGERALD: That's right. If you could give your full name and your position in the organisation you represent and then opening comments, that would be great.

MS CALVERT (NSWCCYP): Gillian Calvert, New South Wales Commissioner for Children and Young People.

MR FITZGERALD: Good, over to you.

MS CALVERT (NSWCCYP): First of all, can I say thank you for the opportunity to appear before you today. I'd like to first of all congratulate the Productivity Commission on their report. We think it's probably the first time internationally that the scientific evidence of the benefits of paid parental leave have been brought together in one report, and that in itself is no small achievement. So we really wanted to begin by acknowledging that massive amount of work and to congratulate the Productivity Commission. Both NIFTeY and the Commission for Children and Young People both generally support the scheme recommended by the Productivity Commission with one important and significant reservation and that is that we don't believe that it's simply long enough for the benefit of children's development, both as babies, but more importantly for the rest of their lives.

I want to make two points today. The first is that in order to have the best outcomes for children, we think the scheme needs to be for at least 12 months and the second is that providing paid parental leave for only 18 weeks assumes that parents will be able to supplement this with their own leave to bring it up to either six or 12 months, which we think will disadvantage many children. If I could address my first point, I think the Productivity Commission has clearly recognised the benefits of a paid parent leave scheme that supports parents to be at home with their children for at least six months. However, if your proposed scheme is to meet the objective of enhancing children's health and development, then I think we also do need to consider how children are going to be cared for in the second six months of their lives. I think by not focusing on that second six months of life, then the longer term benefits of a paid parental leave scheme in promoting health mental functioning and literacy - and I say those two things specifically - won't be realised.

So why are the second six months of a child's life so important? It's between the ages - and this recognising enormous individual differences, but generally between the ages of six to 12 months the systems of the brain involving language,

social skills and reflective thinking are developing. So at around eight months infants begin to master the skills to engage in two-way interactions which the literature calls joint attentional frames. That is really just an ongoing process of communication - what I'm doing - involving facial expression, hand and arm gestures, tones of voice and things like that. The critical thing about the joint attentional frame is that it's during that stage that the infant learns to read the adult's intentions and to imitate their actions. So, for example, you lean down and you tickle a baby's tummy and they respond by moving their fingers too.

But that is more than just playing. It is playing, but the engagement is much more than just playing. What's behind this fun is the infant is actually engage in a co-regulated activity that shapes her actions and her understanding of these actions. The reason that joint attentional frame is so important is that it's believed that that forms the basis of literacy. So that if you don't have that joint attentional frame established during that six to 12-month period, then it has consequences for later literacy capacity. In fact there is research that shows that disadvantaged children in fact do have lower rates of literacy later on when measured at various stages of their schooling and our submission makes a reference to that.

So when the baby's brain develops in a healthy way, then they can master the range of cognitive, emotional and social skills early on which also makes later learning more easy and more efficient. If you don't get those foundational stages right, as you know, later stages become much more difficult. For a joint attentional frame to occur, the infant needs to have a warm, pleasurable relationship with the caregiver - with one or a few caregivers. It's the person who they experience deep emotions with that means that they therefore they want to communicate with that person. So for the joint attentional frame to develop there needs to be an emotional attachment, a deep emotional attachment on the part of the infant and I think probably on the part of the adult as well.

So what happens over that second six-month period is that we do see more synchronicity developing between the infant and the caregiver. They're imitating much more what the adult or the caregiver is doing which is then, of course, subsequently reinforced by the caregiver which in turn again strengthens the brain pathways. Where the caregiver isn't available or there isn't that deep attachment to the caregiver, then those brain pathways don't develop as much, nor as they as strengthened as much. Then, of course, there is the consequent impact on children's language development and on their later literacy skills, their long-term literacy skills.

The other thing that happens at that time is that that's where children also learn how to do shared social problem solving and if the adult isn't attuned and isn't present, that the caregiver isn't attuned and isn't present to the infant, then the development of the infant's shared social problem solving will be affected as well. We see evidence of this in infants who spend a large part of their time in very loud,

noisy, busy child care centres or group care centres where they're not given sufficient personalised attention. What can happen then is the infant can either become overloaded and retreat rather than engage in social problem solving. In that circumstances, in a sense that lack of attention by the caregiver in that stressed environment for the child or the infant means that their cortisol levels go up and are sustained, and that then has consequences for their brain development as well. That in turn can have consequences for mentally healthy functioning, if you like.

So, really, what the research is telling us is that there are two critical things that happen in the second half of the 12-month period, which is the development of healthy mental functioning, and importantly, literacy functioning as well. A scheme of only 18, or indeed, I'd suggest, 26 weeks doesn't support parents to provide their infants with the sort of environment they need in order to be able to develop their healthy mental functioning and their literacy.

So if I could turn now to my second point which is whether the 18 weeks' paid period is sufficient, I mean, apart from those reasons I've just outlined. We actually think the 18 weeks doesn't even meet your criteria for the 26 weeks that the commission has acknowledged is critical for development of children. Many women simply don't have access to employer-paid schemes, as you know, or nor do we believe they have their own leave to supplement a government scheme.

50 per cent of women, the commission found, had access to an employer paid parental leave scheme. That means 50 per cent of women don't, and that means 50 per cent of babies don't have access to a paid parental leave scheme. I think apart from any access to an employer paid parental leave scheme, a lot of women, as you know, again, work part-time, they work casually, they're self-employed. They're unlikely because of the nature of their work to have access to other forms of leave to supplement that 18 weeks to 26 weeks, or 18 weeks to 52 weeks, which is what we'd prefer.

Then there are women who have previously had children and they're unlikely to have a lot of accrued leave. They generally use their leave either to care for children during school holidays or because the children are sick and so on. In fact, those women who have other children are even more likely to be in part-time work, further exacerbating the likelihood that they won't have accumulated leave. Then of course there's the period prior to birth, where women will often use the accrued leave to cover that period prior to birth because very few women work right up till the time that their babies are born, and in fact, some industries require them to leave before the baby is born, and there'd be some employment where that in fact would be the right thing.

So if the goal in designing a paid parental leave scheme is to support the development of newborn babies and infants, then what the evidence would suggest,

both in terms of women's working patterns, but also in terms of the - and from my point of view, far more critically important - the development of the baby, then the appropriate length of time is 12 months. I think the research is quite solid on that, and that the duration of leave, under the paid parental leave scheme, really shouldn't be based on the assumption that parents will have other forms of leave to supplement from that 18 to 52 weeks or 18 to 26 weeks.

So in my view, if we're to design a scheme, then we need to design a scheme that in a sense is a cautious scheme, and while the evidence for the second six months may not be as strong for the first six months, I think the consequences of getting that wrong are too concerning for us to take the risk. So we'd certainly be submitting that at a minimum, you must do 26 weeks' fully paid parental leave, and at a very close second minimum, you really should be doing 52 weeks. Thank you.

MR FITZGERALD: Thanks very much, Gillian. I might ask Angela to start off.

MS MacRAE: Okay. You'd know and I'm sure you've read the detailed work that we've done, and thank you for your acknowledgment that it was a substantial amount of work to try and get all the literature together on this. I think the key possible area of difference or one of the key differences in our reading of the literature may be in relation to how important the caregiver is in that second period, if they're not available full-time to the child. So one of the things that we know in Australia is that many women will go back part-time to work, and so there's a good chance that many of them will be available to their babies, but not on a full-time basis.

So I appreciate your point about the consequences of getting it wrong. I think that's a point that I would concur with, but in relation to, if you like, if I can call it a dose rate, how much the infant needs in terms of the hours of interaction, and in fact, on the research that we did locate - the difference in the number of hours that a caregiver spends with a child, and the number of hours a parent works is, you know, they're obviously not one to one, and we know that many women will try to minimise the impact that has on the care for their child.

So I guess in terms of that second six-month period and the mental functioning and the literacy outcomes for those children, as long as they have a prime caregiver with them for a good part of that time, are we confident on the basis of the literature that we've seen that not having the primary caregiver there full-time - and I think even in one of your statements you talked about having one or a few caregivers - if that's available to them, and I appreciate we're not talking about all families here, but for a good many of them, that was one of the issues. I suppose I wouldn't mind just hearing a comment from you about that.

MS CALVERT (NSWCCYP): First of all, I'd suggest one of the reasons women may well be going back to work part-time in the second six months or indeed the

first six months is because they don't have the financial resources to enable them to stay at home, and we do know that financial support - there's a fair amount of evidence to suggest that it's the level of financial support that influences the woman's decision whether or not to return to work. So I think that the way to deal with the part-time issue is primarily to provide sufficient support for them to be able to stay at home for the first 12 months of the child's life, which is in fact what most women want. So I don't think we can say, in a sense, that the current situation of women returning to work part-time is a choice that women would exercise if they were adequately supported to stay home for the first 12 months of their lives.

In relation to the dose issues, I'd probably say a couple of things. One is that there is a big difference between having one, two or three primary caregivers where there is attachment, and that's that issue I was talking about with the joint attentional frame, that one of the things that means the child imitates the adult is that they've got a deep emotional attachment to that adult, and that drives them, if you like, to imitate and respond and want to engage with the adult.

That deep attachment doesn't occur in child care centres to the extent that a grandparent or an aunt or an uncle or a mother or father has for the child, and that is a key difference between the notion of any three people versus deeply attached three people. So I think that's the first difference that I would say. The second thing is that we can't guarantee the quality of the child care and the level of attention that occurs within child care. I'm very pleased to see New South Wales has gone to a one-to-four ratio, but that is insufficient in terms of the caregiver/baby relationship, and other states still don't have that one-to-four ratio. They still have a one-to-five ratio.

We also know that there's changeover in the baby's room, because it's a stressful environment. So again, not only is the person someone to whom the baby is not deeply attached, but it's someone who is unable to give them the level of one to one interaction that one of the other deeply attached caregivers can give it, and it is the one-to-one continuous interaction that makes the difference; not one-to-five continuous interaction, but one-to-one continuous interaction. So the dose issue is an issue because we can't provide the quality of the caregiving environment in a child care centre that we can with probably supported one-to-one interaction. The exception to that would be if it was a baby living in a very disadvantaged home environment, but you don't develop universal policies based on the exception.

MS MacRAE: One of the other areas - and again I'd be interested in your views on this from the reading of the research - there seems to be an emerging - the degree with which earlier deficits can be overcome and the relative cost of those, I would say that on my understanding of the literature that the extent to which the researchers feel that those early detriments - we're not talking major disadvantage here, but the difference between those that might have had a slight deficit compared to others - the

opportunity to make those things up later and the relative of doing that might be somewhat less than some of the older more dated research might have suggested. Would you agree with that?

MS CALVERT (NSWCCYP): Again, I'd probably want to take that on notice in terms of getting some advice from Prof Shanker, but my reading of the work is that regardless of whether it costs a lot or just a bit to overcome, it's still a cost and we'd therefore be better off investing that money in getting it right in the first place so that we don't have to deal with later problems. The other thing we know is that if you get a good start and you continue through life with that good start, it means that it's easier for you to get the next stage right and it's then easier for you to get the next stage right. If you start poorly, then it's much harder for you to get the next stage right, which then makes it even more difficult to get the stage after right. So it is a cumulative disadvantage, if you like, or a cumulative effect.

MS MacRAE: I think one of the other problems that confounds some of the research in this area is that much of it has focused on what we might regard as fairly grave disadvantage and some of the difficulty comes about in interpreting how much of that is transferable to what we might much smaller differences and I think perhaps that might be one of the other reasons why we may have a different interpretation of the literature to some degree.

MS CALVERT (NSWCCYP): Can I say our submission does address that to some extent where we talk about the issue of children thriving. Is it that we want children who are just able to cope or do we in fact want children who thrive? My contention is we actually want children to thrive. So is it good enough that we've got a slightly depressed kid as opposed to a child who is quite severely depressed and immobilised or do we want the child to be out there exploring the world, being innovative, being confident and being able to manage their emotions so that they can really have a very positive, constructive life. So I think the issue - and I think it's a critical issue, particularly given the global economic crisis and the challenges that we're facing in terms of environmental changes in this world, that we should want more for our children than barely good enough. We actually want our children to thrive.

MS MacRAE: I don't think we would disagree with you on that. This is slightly out of the realm of what we've been talking about, but part of the issue, I suppose, that comes to us at the commission is that there is a view that we already spend a lot on families, that what we have proposed is a relatively modest increase in terms of government or, if you like, a community contribution to that. Is it reasonable, do you think, that if we think this staying at home for another further six months is a critical thing that some of the burden, if I can call it that, although I hate to think of saying that people who spend time at home with their children is a burden. But the cost of that could be that some in society might say, "Well, look, fair enough, we as a

society should be concerned for our children, but at some point the private responsibility for that has to kick in and it's reasonable that parents themselves should be making more of a contribution in terms of that six months.

Suppose I am you, how would you fund that six months and how much of it do you think should be a community or taxpayer-funded responsibility and how much should come from - as I say, it's slightly outside what we're talking about but ultimately that's the critical question that we're coming against, that while, we'd all agree thriving children are wonderful, there's a lot of things that we do as a community and how do we prioritise that against the resources that we've got for other things that we also want to do as a community?

MS CALVERT (NSWCCYP): I think you should probably fund fully up to the six months as your first step, but assuming you've done that, then what do we do with the second six months? Again, that's your expertise as - - -

MS MacRAE: I'm happy for you not to comment if you don't want to, but I just was - - -

MS CALVERT (NSWCCYP): Having said that, I think it is - in some ways you'd almost say it may not be an economic issue, it may be an issue of commitment and will because we do have a budget, taxes are collected and allocations are made from that and decisions are made about what we allocate and to whom do we make that allocation. So is, in a sense, the decision to allocate money to supporting babies' development frankly no more critical task to our future, in my view, than perhaps that isn't an economic question, perhaps it's actually a question about our community and what we value and how much as a community we're prepared to invest in our future and our children's future.

MR FITZGERALD: I think it also raises the issue, which is outside of our terms of reference and may or may not be picked up in the Henry review of tax and welfare, is whether or not some of the family payment structures in fact need to be rejigged and reallocated for different priorities. I mean, we do spend a very substantial amount on family support and contrary to a lot of views, it's actually at the high end of the OECD average. But the question, I suspect, is whether or not we're getting this value and that depends on where you believe the priorities should be put and that comes back to your issue and I suppose our issue about the evidence.

If I can just take you back to the first six months and obviously we understand fully that you believe the scheme should be, in the first instance, at least a full replacement wage up to 26 weeks.

MS CALVERT (NSWCCYP): Sorry, Bob, can I just clarify. We would prefer the 26 weeks at a minimum wage and full replacement of 18 weeks because we think

what's critical is duration and certainly for the poorer people.

MR FITZGERALD: I'm sorry, okay. So 26 weeks at minimum wage. We have heard from a number of people that have put the proposition that you have to us that particularly for casuals or low-income workers they often don't have access to other leave. I suppose one of the things that's come up in the commission is that looking at where we start from, we have a situation where 85 per cent of women are currently at home at three months, 70 per cent at six months and a slightly lesser percentage at nine months. Some would say in the commission, "They're already achieving that. Whilst it may not be ideal, we've already got a pattern of behaviour in Australia well established over time where the vast majority of women are in fact already there at three months and at six months."

So in a sense people would say, "Well, you start from that position, not going back to zero." So in a sense if you looked at it that way, you'd say the 18 weeks gets the vast majority of women to the six-month figure.

MS CALVERT (NSWCCYP): There are probably two things I would say in relation to that. The first is that if 70 per cent, I think you said - - -

MR FITZGERALD: 70 per cent are at home at six months.

MS CALVERT (NSWCCYP): By nine months it's how many?

MR FITZGERALD: I've just forgotten the figure. It's less than that.

MS CALVERT (NSWCCYP): 60 per cent, say, for example, then if in fact we give a fully-funded six months, we in fact might get 70 per cent for nine months.

MR FITZGERALD: Absolutely.

MS CALVERT (NSWCCYP): For me that's a benefit. So that would be the first thing I would say, that if you've said six months is critical, then you need to fund the six months and then by doing that that will in fact extend the number of babies who are able to be cared for by their primary caregiver which, for me, is the critical thing. The second thing I would say is that we are facing a global economic crisis. We're in the midst of a global economic crisis that doesn't appear to be turning around very quickly and people are predicting there will be increased unemployment. It may well be that then means women are forced to return to work earlier in order to hang on to the jobs they've got because they're worried about losing that job and when they're already vulnerable and marginalised. It's precisely in this environment that you need to provide enhanced security to those women, so that at a minimum we keep the figures we've currently got.

MR FITZGERALD: A second issue that has arisen and you haven't mentioned it in your oral submission and it may be in the written, some people have queried our eligibility tests in relation to workforce attachment, that 12 months with any employer and 10 hours per week. Clearly we've come to a view that this is a work-related entitlement - not everyone agrees with that - and therefore you have to have a work attachment eligibility criteria. I was wondering do you have any views about that or not?

MS CALVERT (NSWCCYP): I agree it is a work-related entitlement that benefits children and babies. I think your report talks about other forms of support to families, the continuation of the renamed - - -

MR FITZGERALD: Yes, baby bonus.

MS CALVERT (NSWCCYP): - - - baby bonus and also the provision of a range of other support services like sustained nurse home visiting for particularly vulnerable families or playgroups or integrated child and family centres and so on. So I think it is a work-related entitlement. It's required only because you're in the workforce and you wish to return to that workforce, but you can't both care for a baby at home and be in the workforce, so it is a workforce entitlement, in my view. It arises because of women's participation and men's participation in the workforce.

MR FITZGERALD: Some people have said that our eligibility test impacts adversely on women having their second or third child because they may return earlier and therefore not meet our workforce eligibility criteria. I was wondering whether you have given any consideration to that.

MS CALVERT (NSWCCYP): No, we haven't.

MR FITZGERALD: That's fine. Just going back to the fact that it is a workforce entitlement, you will be aware that we've received a number of submissions and there has been press coverage about those that believe our scheme is inequitable vis-a-vis families at home. Indeed, the Shop, Distributive and Allied union yesterday was quite strong in its criticism by not supporting with equal payment people at home. Given that you are responsible for the care and wellbeing of all children, irrespective of where they sit or live, I was wondering whether you have a comment about that.

MS CALVERT (NSWCCYP): As I said, I think that the entitlement only arises because someone is in the workforce and because they need to be able to stop working in order to provide the environment of the infant. If someone isn't working, they're already providing that environment and the critical thing for me is the provision of the environment for the baby that develops the baby. So from a baby's point of view it's not discriminatory, in fact it positively benefits babies by enabling them to be cared for by their parents. I think the question of what happens to women

and men who aren't in the workforce or who are at home, as you say, might well be better addressed through the tax review or other mechanisms, rather than the paid parental leave which only arises because of participation in work.

MR FITZGERALD: Can I also just push you on an issue which you again may not have considered and may not want to comment. We've suggested a differential, that is, 60 per cent of the minimum wage be paid to people on junior wages and trainee wages. This afternoon we've had the presentation from the National Youth Law Centre indicating they think it's discriminatory but also that our assumptions that it may have perverse impacts is not well founded. We're looking at that issue, but given your experience I wonder whether you have a view as to whether or not there is any justification for a differential to be paid for predominantly younger people on junior and trainee wages. I suppose in one sense the political issue arose from the way in which some people believe that the baby bonus could have been misused or in fact created a perverse incentive. I was wondering whether you have a view about the way in which - - -

MS CALVERT (NSWCCYP): I have been unable to find any evidence that the baby bonus in fact had a perverse incentive, despite looking for it. So I don't think that paying young women the minimum rate is going to have a perverse incentive for them to leave the workforce and have babies. I am interested in what happens to babies and I'm not aware of babies of young women costing less than babies of older women. So our argument would be that they should be paid the same rate as older women because it's about the care of the baby that's critical.

MR FITZGERALD: Okay. Angela?

MS MacRAE: I don't think I've got anything else.

MR FITZGERALD: Just in terms of the research, the joint attentional frame that you've spoken about, just for my benefit - - -

MS CALVERT (NSWCCYP): Which the submission explains - - -

MR FITZGERALD: Perfectly well.

MS CALVERT (NSWCCYP): - - - much more clearly.

MR FITZGERALD: I will read it in great detail, it's just that I've left my submissions in Canberra. Who is the main proponent of that concept?

MS CALVERT (NSWCCYP): Prof Shanker has helped us with our second report and so he has drawn on the literature again. So we'd be more than happy, as we said previously, for you to contact him directly.

MR FITZGERALD: Sure. That's fine. Angela has raised the query, I suppose, in relation to part-time care and you've answered that explicitly and very well. When we go beyond the 12 months and again, given that our inquiry is actually meant to look at the support of children up to two, although obviously we're concentrating on the parental leave issues at a much younger age, we became very equivocal past the 12-month point and really we're still waiting for submissions to tell us what our approach should be past that date, that second year. Clearly we're not going to extend the parental leave scheme in its first iteration to that group, but are there issues or public policy areas that you think we could better explore or promote that would support parents in that second 12 months? I have to say we've had very few submissions and largely, I think, because the focus is on the earlier parental leave. But I was wondering whether there was anything we could be doing.

MS CALVERT (NSWCCYP): What we would be raising would be things like family-flexible work practices and arrangements, so the capacity to work part-time, the capacity to be flexible about work hours or to insist on working standard hours so that you can have reliable drop off and pick up and there isn't an intrusion of work into the home life. They would be the range of things that we would be looking at, the fact that women's career paths were interrupted or weren't discriminated against because they were part-time, those sorts of things. So a change in work culture and the behaviour of employers, if you like.

So I think that is one public policy area that really benefits children in the 12 to 24-month period. So we would be strongly advocating that. I would also be saying another public policy issue would be the quality of child care services, so that babies who are put into child care, group care in fact have ratios of at least one to three and where they are staffed by qualified staff and they are in fact well regulated. So that, I think, is another area of public policy that you could pay attention to for the second year of life. I think probably the third area of public policy would be in the area of family support generally, so the provision of, I guess, integrated child and family centres.

That is particularly relevant for vulnerable children because the research is really quite strong around impacts being most effective when the intervention is multi-generational - at least two generations - so that where the program or the intervention or the support targets the parent and the child which is why those integrated family centres appear to hold such promise. But then there may be some other aspects of family support such as sustained nurse home visiting or whatever that you'd want to address as well. But they would be three areas of public policy I think you could address.

MR FITZGERALD: Thanks for that. Can I just ask one other issue - and again you may not have a view. We have been encouraged during the post-draft phase to

extend the capacity of the mother to transfer the leave, not only to the father or supporting partner, but also to other groups. One group that is obvious that we should include and that is where relatives have taken the permanent care and are the primary carer for children and that may happen for a whole range of reasons and we've had a number of relatives present. A more difficult area for us is the issue of kinship arrangements in indigenous families and the third one is more general where it could be transferred to the grandparent, not where the grandparent has taken sole responsibility, but just is a carer.

We've been reluctant to move to that third category because this is not about supporting child care, it is about attachment to the workforce, but also to the parents. The issue of indigenous kinship arrangements, we are exploring. We will be talking to indigenous groups about that. But I was wondering whether you have a view as to whether or not the other should be able to transfer part of her parental leave to a kinship carer. It's unlikely to happen in many cases and one of the other problems is the kinship carer would also have to meet the workforce eligibility criteria and in the case of most aunts and maternal grandmothers, the primary carers, that's not likely to be a large number. Again, you may not have thought about that.

MS CALVERT (NSWCCYP): In terms of breastfeeding it raises some interesting issues. It probably doesn't promote breastfeeding so it may be at certain points of time. Given the current proposal doesn't get to the six months which is desirable, I've had some queries about that. I guess really we should be trying to allow families to be flexible and to make their own arrangements for who cares for their children. If the numbers are going to be so small, it seems perhaps churlish not to include them because it's unlikely to topple the scheme. If the numbers were significantly large, then you'd probably want to - I'd probably want to think about it significantly.

MR FITZGERALD: Sure.

MS CALVERT (NSWCCYP): But given the numbers are likely to be very small and if, for some reason, that's the best arrangement for that child, that baby and that family, then I can't see a reason why you wouldn't include them.

MR FITZGERALD: Okay, good. Any other final comments, Gillian?

MS CALVERT (NSWCCYP): Not at all, just to thank you for the opportunity.

MS MacRAE: Thank you.

MR FITZGERALD: Thanks very much for the submission and we very much value your first and your subsequent one in dealing with the research issues which a very large portion of our team has spent a long time looking at, so I'm sure they'll come back to you. That concludes our public hearings, both here in Sydney and for

the inquiry. The final report will now be developed and presented to the Commonwealth government on the last week of February, at which time they will be able to release the report once they've given due consideration to it. I just want to thank participants, thanks to the recordist and my fellow commissioner, Angela MacRae, for all the work that she has done, and we'll all wait and see what the outcome is. Thank you very much.

AT 4.08 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY

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