

Whatever happened to paid maternity leave?

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Background

Information from 52 countries, including every European country and non-European OECD ones, shows that Australia and the US are the only ones without comprehensive paid maternity leave (PML).

In European and OECD countries maternity leave is typically paid through an insurance system, funded by various combinations of employee, employer and government.

Under the old social settlement in 1940s Australia, married men were regarded as breadwinners while married women were expected to be full-time home makers and child rearers, rather than having a substantial labour force attachment. Normal living standards were based on the single income family model.

By the 21st century that system was no longer the norm. Women are now expected to take their place in the labour force, and aspire to equal rights, wages and conditions with men. However women are not compensated for the fact that they also have the role of child bearing. When women have children they are suddenly thrown back into the role of dependent spouses.

Family finances, particularly housing, are geared to two incomes. If a woman takes unpaid maternity leave it can often precipitate a family financial crisis. Particularly for families with moderate incomes and high mortgage repayments that crisis can be so severe it could mean having to choose between continuing with a pregnancy or continuing with home purchase. Alternatively the husband might take a second job or the family might go into debt or run down savings.

The new social order needs to recognise women workers' need for income protection to accommodate the fact that they are the ones who have children. Not only to families place very high importance on children, but socially and economically there are strong arguments for reversing the long term decline in the birth rate.

There are however a number of considerations in establishing PML in Australia because of the nature of our social security and remuneration systems. There have been two models in Australia to cover maternity leave. One is direct payment by an employer. The second is direct payment by the federal government.

Direct payment by employers

Under Workchoices, AWAs and collective agreements cannot fall below the federal minimum wage and the five basic conditions. One of these conditions is 52 weeks unpaid parental leave. However, PML would need to be negotiated in either a collective or an individual agreement.

Employers may use PML as a strategy to attract young women. This is typically in the privileged sectors of the workforce. It is estimated that around 23 per cent of women workers in Australia would be eligible for PML, mostly in the public, education and health sectors and in some large white collar companies.

Otherwise it has been hard to get priority for PML in collective bargaining, as it only affects a small proportion of workers at a particular time. Women have low bargaining power. In the new IR environment collective bargaining is severely restricted. In negotiating AWAs the gender gap is increasing.

Having gained entitlement, paid parental leave funded directly at an individual employee-employer level is a cost to employers, because of the need to temporarily replace the employee, as well as fund the leave payment itself. The fact that it is so specific to one demographic – women of child bearing age – means that employers will see that group as having a risk premium attached. This premium is the cost of the leave multiplied by the perceived probability that an employee will become pregnant. Even women who do not intend to have children are thus lumped into this high risk group. Although there are good reasons to have a demographically balanced workforce, and in some sectors particular reasons for preferring young women, particularly for smaller employers the potential cost of an employee going on parental leave might outweigh any such considerations.

This perceived extra cost has two consequences. The employer might discriminate in hiring young women if there is an approximately equivalent male or older female candidate available. The Sex Discrimination Act prohibits overt discrimination of this sort, but it is legislation based on an intention and is very hard to enforce. No canny employer is likely to admit to such consideration, which makes it hard to assess how common it would be.

Alternatively, in determining an individual workplace agreement, a young woman wanting a paid maternity leave entitlement might well be under pressure to trade off pay or conditions to remain competitive with someone who didn't need that entitlement. In effect this would be making her pay for the entitlement in other ways.

Maternity leave is particularly a problem for small business which cannot spread the cost across a large number of staff. Many small businesses in particular would be hard hit by a requirement to pay paid maternity leave.

These considerations also apply to other forms of paid leave, particularly sick leave, but in the case of PML it applies only to an identifiable demographic group.

Direct payment by Government

There have been two campaigns to get PML funded by Government.

The first was in 1994 under Keating Government. It was, naturally, handed to the Department of Social Security as the Department responsible for income support. The income support system provides means tested payments to people without other income, or with low levels of income and the means test is based on the combined income of a couple. This is the principle of vertical equity. It also provides a small number of non-means tested payments to people with special needs, for example Mobility Allowance for people with disabilities who pay more for transport than others. This is the principle of horizontal equity. Family payments are also based on the principle of horizontal equity, because they provide support for the costs of children, but they are concessionally means tested.

In comparing the needs of women who lose their wages or salaries during periods of parental leave, comparisons were made with people who are unable to work because

of old age, unemployment, disability, or caring responsibilities and with women caring for children who had not been in paid work.

There was no equity comparison that could provide a payment related to the woman's usual earnings. In the end the only option considered feasible was a maternity allowance or baby bonus (28 countries in the international study provide a birth grant as well as PML). The maternity allowance is currently \$4,133, rising to \$5,000 in July 2008. Even this grant is criticised as 'middle class welfare' because Australia is so used to expecting that government income support be means tested on family income.

In 2002 HREOC proposed a fully government funded PML of 14 weeks duration. It would replace earnings up to the level of the minimum wage. To curtail cost, HREOC proposed that recipients would not receive the maternity allowance or family payments in that period. A person could choose to take PML or the existing payments.

The HREOC proposal gained the support of a number of interested individuals and groups. These include the Human Rights and Equal Opportunity Commission, the Women's Economic Think Tank, the Women's Electoral Lobby, the Greens Party and the ACTU.

The Government currently provides Parenting Payment and family payments for families with babies and children up to age 5 or 7. For sole parents Parenting Payment is equivalent to the age pension and for partnered parents it is equivalent to Newstart allowance. Family payments comprise the Maternity Payment of \$4,100 (not means tested), Family Tax Benefit Part B (income tested on the annual income of the second earner) and Family Tax Benefit Part A (jointly income tested). These benefits are generally intended to address the costs of children, to promote horizontal equity between families with children and those without, not to replace income for the parent.

Adding Parenting Payment and family payments together, the amount provided for a sole parent would be equivalent to 133 per cent of the minimum wage and, for a partnered parent, 120 per cent, as shown in the following table:

<i>Payment component</i>	<i>Single</i>	<i>Partnered</i>
	Weekly amount	
Parenting Payment	\$ 256.05	\$ 189.90
Family Tax Benefits A and B	\$ 130.90	\$ 130.90
Maternity Payment (pro rata over 14 weeks)	\$ 292.86	\$ 292.86
Total	\$ 679.81	\$ 613.66
% AWE (persons total = \$837.70) – Aug 06	81.2%	73.3%
% Minimum wage (38 hours = \$511.86)	132.8%	119.9%
Difference b/w Social security and min wage	\$ 167.95	\$ 101.80

Sources: Centrelink, ABS, Australian Fair Pay Commission. Rates current at Feb 07.

The HREOC proposal was for the Government to pay a new paid maternity leave which would replace a woman's former wage or the minimum full-time wage, whichever is the lower, for 14 weeks. This would apply to employed and self-employed women who had been in employment for 40 of the preceding 52 weeks, but not necessarily with the same employer.

Women receiving this payment would not be eligible for Maternity Payment or the family tax benefits. The payment would be taxable and would count as income for the parenting payment income test.

The result of this would be that the Government would provide a maximum paid leave entitlement of \$102 a week less than is available now to a partnered woman receiving full-rate parenting payment with family payments, and \$88 more than the family payments alone, which it replaces. It would provide \$168 less than the payment a sole parent would be entitled to currently. It would up to the individual to choose whether to take the paid maternity leave or the existing benefits.

The main people to benefit would be those with employed partners earning over \$822 a week, almost average weekly earnings. There are numerous other anomalies involved because of the way the different the social security payments are calculated.

A sole parent would be eligible for part-rate pension but the overall effect would still be below her current entitlement. The calculations involved in whether to take the benefit or go for the existing payments would be very complex, depending on both the annual and fortnightly incomes of the woman and her partner, the time of the birth in the financial year and whether there were other children.

It would be far simpler to merely remove the income tests on family payments and parenting payment for 14 weeks.

The HREOC proposal is neither fish nor fowl. It does not make sense within the paradigms of the wage structure nor within those of the Australian social security system. It does not replace earnings nor is it needs based. It does not rescue the family relying on the wife's income to prevent mortgage foreclosure.

The logic of the social security system does not make payments that pay more to those who have more. The HREOC proposal is not needs based as it does not apply to those outside the workforce or with an insufficient recent employment history. Even for those qualifying, the poorest are those with part-time earnings less than \$512 a week and they would not get the full amount.

This proposal has the problems that beset the 1994 deliberations.

The complexity of calculating whether you would be better off on PML than parenting or family payments is extremely complicated – depending on your and your partner's annual and weekly income and the time of year when the birth occurs.

While those outside Government see the option of government funding as a conveniently cost free option, which avoids the impost on employers, it would in fact be funded through tax, through abolition of some current use of public funds, or forgoing tax cuts. The bulk of taxes are in any case paid by business or by employees.

Such a proposal would be unlikely to compete successfully, in the Budget process or the election policy development process, with other pressing welfare and expenditure needs and would be widely criticised as middle class welfare.

Other models

Two other ideas are occasionally put forward. One is allowing women to draw down superannuation to pay for maternity leave and the other is a HECS-style scheme where they pay it off when they return to work and reach a specified income level. These have some merits in terms of income smoothing and avoiding a sudden drop in income at the time of childbirth. However, both involve the individual woman paying over her life-course for her own child bearing role, and do not address the need for financial compensation from those who do not face an interruption to earnings because of childbirth. The worker who is covered by sick leave or worker's compensation is not generally required to cover his or her own loss of earnings.

These models could however be used to protect parents who take periods of parental leave beyond the immediate period before and after childbirth.

Alternative proposal

It seems that there is a strong case for PML as a right of women workers. The question is, how to fund it.

My proposal is that the source of funding would be a levy on wages and salaries, distributed across the whole workforce. This could be deducted before tax but taxable when paid to the woman.

In parallel there should be some compensation for employers for the cost of replacing an employee who takes leave for this purpose and this would be pooled across employers. This would address the problem of the premium on employing women of this age.

The contributions by both employer and employees would be managed centrally and claimed when the employee took maternity leave. They could be collected along with tax and placed in a nominal fund. In the UK system, employers make the payment directly but are reimbursed by Government.

Let me outline the implications of this.

While data on take-up of maternity leave at present are extremely scanty, HREOC reported that 1.3 per cent of Commonwealth employees and 1.9 per cent of New South Wales Government employees took maternity leave in a year. Let us assume that the figure would be in the order of 2 per cent per year, to allow for the broadening of eligibility to those who did not have 52 weeks service with the same employer. Female earnings are 78 per cent of AWE.

My proposal is as follows:

- All wages and salaries be levied $\frac{1}{2}$ a per cent, before tax, collected along with PAYE tax.
- All employers be levied $\frac{1}{2}$ a per cent of payroll.

- A woman taking maternity leave be paid 6 months full replacement pay out of the pooled funds (possibly paid through the employer and reimbursed).
- The woman's employer would be paid 7 weeks equivalent pay to defray the cost of a temporary replacement.
- This involves a small transfer from employers to employees, requires an equal contribution from both sides, but reduces individual risk to the woman and the employer.

Other variants would be:

- Include paternity leave or parental leave
- Include carers leave
- Extend it to cover other forms of leave such as sick leave or long service leave.

These variants would involve increasing the employer contribution by the average cost of the current leave arrangements.

Some issues are:

- how to include the self employed and contractors – a particular case would be family day carers (self-employed are often included in other countries).
- should public sector employers who already provide PML provide an extended period, cash out the value in wages to partly offset the levy or take the windfall gain?
- what would other employers currently paying PML do? If they took the third option they would swing in behind the proposal.