



AUSTRALIAN  
WOMEN  
LAWYERS

**Submission to the Senate Community Affairs Legislation Committee inquiry into the Paid Parental Leave Amendment (Flexibility Measures) Bill 2020**

<b>Submitted by:</b>	<b>Australian Women Lawyers</b>
<b>Submitted electronically via Committee Website</b>	<a href="https://www.aph.gov.au/Parliamentary_Business/Committees/OnlineSubmission">https://www.aph.gov.au/Parliamentary_Business/Committees/OnlineSubmission</a>
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### **About us**

Australian Women Lawyers (**AWL**) is a justice and equity champion advancing women in the legal profession and beyond.

AWL is incorporated under the *Corporations Act 2001* (Cth) as a company limited by guarantee and is governed by a board of directors comprising representatives from each State and Territory women lawyers' association. Our current Patron is the Chief Justice of the High Court of Australia, the Honourable Susan Kiefel AC.

The objects of AWL are to:

1. achieve justice and equality for all women
2. further understanding and support for the legal rights of all women
3. identify, highlight and eradicate discrimination against women inherent in the legal system and in the community generally;
4. advance equality for women in the legal profession;
5. create and enhance awareness of women's contribution to the practice and development of law; and
6. provide a professional and social network for women lawyers.

### **Introduction**

Since its establishment in 1997, AWL has provided a professional and social network for women lawyers; promoted the understanding and support of women's legal and human rights by identifying, highlighting and eradicating discrimination against women in the law and in the legal system; and advocated for justice and equality for all women.

AWL welcomes the opportunity to make this submission to the Senate Community Affairs Legislation Committee inquiry into the Paid Parental Leave Amendment (Flexibility Measures) Bill 2020 (**Bill**).

AWL supports the primary purpose of the Bill, which is to make the Government's Paid Parental Leave (**PPL**) scheme more flexible in order to support women's workforce participation.

However, we wish to make a brief broader submission that further amendments to the PPL are required if the Government is genuinely interested in increasing women's workforce participation and therefore increasing the competitiveness and productivity of the Australian economy and modern workforce. In particular, we consider the distinction between 'primary carer' and 'secondary carer' should be removed as these definitions perpetuate gender stereotypes in parenting and are outdated when considering the needs and operation of a modern family.

### **Distinction between primary and secondary carers**

Section 3A(1) of the *Paid Parental Leave Act 2010* (Cth) (**Act**) states that:

*'The object of parental leave is to provide financial support to primary carers (mainly birth mothers) of newborn and newly adopted children, in order to:*

- (a) allow those carers to take time off work to care for the child after the child's birth or adoption and*
- (b) enhance the health and development of birth mothers and children; and*
- (c) encourage women to continue to participate in the workforce.'*

Section 47 of the Act defines 'primary carer' as the person who is caring for the child on a day in the relevant period and that person meets the child's physical needs more than anyone else in that period. Further, only one person can be a child's primary carer on a particular day.

### **Embedded gender stereotypes**

AWL is concerned that the use of the term and definition of 'primary carer' continues to perpetuate gender stereotypes in parenting. This is particularly so considering the inclusion of the words '*mainly birth mothers*' in section 3A(1) of the Act and the fact that the entitlement for secondary carers is named 'Dad and Partner Pay'.

AWL's concern is supported by Australian Bureau of Statistics figures that showed only 5% of fathers take primary parental leave, with 95% of all primary leave taken by mothers.<sup>1</sup> In addition, for parents with a dependant child aged under five, only 64% of women participated in the labour force, compared with 95% of men. Unsurprisingly then, the median superannuation balance remains lower for women than men with the median superannuation balance at or approaching preservation age in 2017-18 being \$119,000 for women and \$183,000 for men.<sup>2</sup>

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<sup>1</sup> Australian Bureau of Statistics, September 2017, Gender Indicators, cat no. 4125.0, <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4125.0~Sep%202017~Main%20Features~Work%20and%20Family%20Balance~7>

<sup>2</sup> Australian Bureau of Statistics, November 2019, Gender Indicators, cat no. 4125.0, <https://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/9B066BD541813DA3CA25819F008332D0?opendocument>

In addition, we note that key findings from the National Working Families Report 2019<sup>3</sup> include the following:

- Australians are fatigued, stressed, anxious and depressed as a result of trying to balance work and family commitments and report that personal wellbeing and family relationships suffer as a result;
- men face barriers in accessing paid parental leave and flexible work options, which include social attitudes that make it challenging for men to ask for and take these support mechanisms; and
- inequality in household and parenting labour in Australia is partly due to the way workplaces are structured and managed, but also due to an entrenched male bread-winner culture.

Where gender stereotypes underpin paid parental leave schemes, caring responsibilities are unequally skewed towards women. Indeed, recent studies have shown that women are still doing the bulk of unpaid household work — childcare, housework, caring, volunteering, errands and purchasing. Additionally, the total work burden including paid and unpaid work, is larger for mothers than for fathers.<sup>4</sup>

The consequence is that women face less opportunities for career development and advancement as well as lower average salaries and superannuation. The ability for fathers to establish meaningful relationships with their children through early bonding is also negatively impacted.

AWL therefore submits that while the proposed amendments in the Bill are a step in the right direction, the Act and PPL scheme requires further amendments to remove the gender stereotypes underpinning the concept of primary and secondary carers. The Act and the PPL scheme should be gender equal and promote equal sharing of caring responsibilities to reflect the rapidly changing workplace and family structures.

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<sup>3</sup> Report is prepared by Parents At Work and Dr Linda Peach, Diversity & Research Consulting in response to the National Working Families Survey developed and conducted by Parents At Work, Karitane and APLEN, <http://www.aplen.pages.ontraport.net/WorkingFamiliesReport2019>

<sup>4</sup> Australian Bureau of Statistics, 2006, 'How Australians Use Their Time 2006', Cat no. 4153.0, <https://www.abs.gov.au/ausstats/abs@.nsf/mf/4153.0> and Melbourne Institute, 2019, 'Household, Income and Labour Dynamics in Australia Survey', [https://melbourneinstitute.unimelb.edu.au/\\_\\_data/assets/pdf\\_file/0011/3127664/HILDA-Statistical-Report-2019.pdf](https://melbourneinstitute.unimelb.edu.au/__data/assets/pdf_file/0011/3127664/HILDA-Statistical-Report-2019.pdf)