



Ref: POLGOV/CCB-SEN WP:kk

11 May 2010

Exposure Draft of the Paid Parental Leave Scheme Bill 2010
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam,

Exposure Draft of the Paid Parental Leave Scheme Bill 2010

The Guild welcomes the opportunity to provide this written submission into the Committee's inquiry of the Government's Paid Parental Leave (PPL) Scheme, as contained in the Exposure Draft Paid Parental Leave Bill 2010 and Explanatory Memorandum.

The Guild is concerned that the Government has not taken onboard the genuine concerns of business, particularly small/medium employers with respect to the paymaster function that would be required under its PPL scheme.

The Guild was involved in parallel Government consultations in 2008 and 2009. In the limited time available for the Guild to consider the detail of the Exposure Draft and associated materials, we remain concerned that no proper consideration has been given by the Government to the difficulties that the proposed paymaster function concept would have on our members, who are for the most part small business employers.

The Guild submits in the strongest terms that the paymaster function of the PPL Scheme should be fully administered by the Family Assistance Office, with no requirement for employers to administer payments.

The Guild looks forward to the opportunity to make an oral submission at the public hearing to be held in Canberra on Wednesday 19th May 2010.

If we can be of further assistance with this issue, please contact Karen Killeen, Small Business Policy Officer, on (02) 6270 1888 or by email karen.killeen@guild.org.au.

Yours sincerely

Wendy Phillips
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The Pharmacy
Guild of Australia

Submission to the Senate

Community Affairs Legislation

Committee on the Paid Parental Leave Scheme Bill 2010

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A Paid Parental Leave Scheme

The Guild welcomes and supports the introduction of a fully funded Paid Parental Leave (PPL) scheme by the federal Government which recognises the need to enhance the wellbeing of young children in infancy by providing better support for their parents to take time away from work.

However, the Guild holds serious concern in relation to the proposed aspect of the PPL that suggests employers should act as paymaster.

The Pharmacy Guild of Australia

The Pharmacy Guild of Australia (the Guild) is the national peak body representing community pharmacy. It represents the interests of its members and supports community pharmacy in its role to deliver quality health outcomes for all Australians. Our members are owners of over 4,000 pharmacies throughout Australia. The Guild is committed to supporting and maintaining the community pharmacy model as the most appropriate and efficient system of delivering medicines, medication management and related services to the Australian public.

Pharmacy as a Small Business

Community pharmacies operate as small businesses. While the public often identify with banner groups of community pharmacy such as Terry White, Capital Chemist, Amcal, Chemmart and the like, these groups generally comprise separate independent small businesses which band together under a common brand name for marketing, management or promotional purposes. There are only a few genuinely large businesses in community pharmacy.

Profile of Community Pharmacies

Community pharmacies as small business enterprises comprise a substantial part of the small business sector in Australia with combined annual turnover of more than \$12 billion. The annual turnover of the average pharmacy is approximately \$2.4million. Community pharmacies employ some 50,000 people, consisting of approximately 15,000 pharmacists and 35,000 pharmacy assistants.

Predominance of Women

The “feminisation” of the pharmacy profession is one of the most cited and researched aspects of the changing demographic characteristics of the pharmacy profession, both in Australia and internationally (Pearson, 2006; Seston et al., 2007; SHPA, 2007). In Australia women dominate both the professional pharmacy staff and pharmacy assistant ranks, with over 85% of all persons engaged in community pharmacy being female. Approximately 45% of the female cohort is in the prime child bearing age range (25-44 years, *Productivity Commission*).



There are a number of factors that account for the high predominance of women in the community pharmacy sector.

Firstly, women tend to be drawn to the role of community pharmacist and to that of pharmacy assistants because of their innate nurturing and empathetic behaviour when relating with the unwell, vulnerable and elderly members of the community. Secondly, community pharmacies have been able to provide flexible work options, particularly due to the capacity within the sector to be able to offer flexible part-time employment opportunities. And thirdly, community pharmacy as a profession has benefited from the increase in female participation in further education.

The trend towards increasing numbers of women pharmacy graduates can be seen over recent years with women comprising 70% of graduates in 2008, 66% in 2000 and 59% in 1988. *(Guild submission on Pay equity and associated issues related to increasing female participation in the workforce, October 2008).*

The high incidence of female participation in the community pharmacy sector significantly multiplies the impact for community pharmacy of the employer paymaster function.

The government's Regulation Impact Statement (RIS) included in the PPL Explanatory Memorandum Exposure Draft, identifies at page 13 that:

"Businesses with greater proportion of female employees of child bearing age such as hair and beauty shops would be more likely to be affected."

The RIS also states at page 14:

"A small business employer with an eligible employee is likely to experience higher disruption, and higher costs as a proportion of their payroll costs, than larger business. Small business owners might not have to increase their expenditures, but might have increased demands on their time."

The RIS costing on the first year of the proposed PPL estimates the overall cost to small business to be \$59.1 million dollars.

The Guild contends that the role of paymaster will have a substantial and disproportionate impact on its members because:

- 1. They are small business employers;**
- 2. They employ a proportionately high number of female employees; and**
- 3. Approximately 19,125 of their female workforce are within the prime childbearing age range. *(Guild Digest)***



Recommendations

Recommendation 1: That the Commonwealth administer the Scheme

The Guild submits in the strongest terms that the paymaster function of the PPL Scheme should be fully administered by the Family Assistance Office, with no requirement for employers to administer payments. This is the preferred option of the Guild.

The Case for the Commonwealth to be the Paymaster

The small/medium enterprise paymaster function would serve no purpose other than to significantly increase the regulatory burden and costs to all small businesses and in particular Guild members as owners of community pharmacies, given the disproportionately high predominance of women in the sector. This is at a time when the Government has made a commitment to reduce the burden of regulation on business.

There is no evidence in Minister Macklin's Explanatory Memorandum that any derived benefit to employees, such as maintaining a connection to the workplace, outweighs the significant burden on small/medium enterprises in administering the scheme on behalf of the Commonwealth.

It is the Guild's primary position that the Commonwealth should pay and administer the PPL scheme, as we understand is the case in New Zealand. The Guild does not accept that employers and businesses should be the paymasters. Indeed the Guild considers such a proposal to fundamentally contradict a commitment announced by the then shadow Ministers Gillard, Macklin and Plibersek on 13 July 2007, that a Rudd Government would "examine further reforms to support parents with new born children", but would not "...support a system that imposes additional financial burdens or administrative complexity on small businesses or in any way acts as a discouragement to the employment of women". (www.alp.org.au)

Cost and Administrative Burden

In an earlier submission on PPL during the consultations conducted by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) in the latter part of 2009, the Guild identified a substantial number of additional costs (both financial and time related) and administrative burdens that will result if small/medium enterprises are pushed into the paymaster function. These include:

- the required system upgrades to administer the payments;
- the administrative burden of processing the payments;
- the inherent administrative complexities within the scheme;
- the additional maintenance of appropriate records; and
- the meeting of compliance and audit requirements



The Productivity Commission, in its Report concerning the proposal for a PPL in Australia, stressed the compliance burden that would result for employers if the paymaster function was imposed on business. At page 7.7 of the Report, the Commission states:

“...detailed record keeping requirements to enable program performance and monitoring and government auditing (to minimise the risk of fraud) would also impose a burden on employers and the self-employed...”

The Commission clearly identified increased record-keeping burdens on employers and foreshadowed that employers will be expected to prevent Commonwealth fraud and play an auditing role in the scheme. The Guild contends that small/medium enterprise operators do not have the time, skills or resources to take on such a function, further supporting the Guild’s primary position that employers should not be the paymaster under the proposed scheme.

In an article published by WorkplaceInfo (www.workplaceinfo.com.au) on 10th May 2010, the following comment was made:

“Employer interaction with Family Assistance Office and the PPL scheme can be expected to be greater than proposed. It seems likely that Family Assistance Office will either want to talk to employers to confirm employee details in certain circumstances (or require employees to provide further evidence, which they will seek from their employer). As well, it can be expected that employees will ask employers for information about the PPL scheme or for help in assembling documentation.

The Employer Business Requirement Statement

[\[www.familyassist.gov.au/Publications/ppl_brs/Pages/default.aspx\]](http://www.familyassist.gov.au/Publications/ppl_brs/Pages/default.aspx)

identifies the following requirements on employers:

- 1. The employer must provide required details to the Family Assistance Office so that it can advance the employer PPL funding amounts. This will include the employer’s bank account details and the employee’s pay cycle details.*
- 2. The employer must provide PPL pay to its employee for the PPL period.*
- 3. The employer must provide PPL pay to the employee in accordance with the employee’s normal pay cycle.*
- 4. The employer must withhold tax from the PPL pay under the usual PAYG withholding arrangements and include PPL pay in the total amounts on the employee’s annual and part-year payment summary (statements produced and given to the employee for tax purposes).*
- 5. The employer must provide the employee with access to a record of their PPL pay — usually a pay slip.*
- 6. The employer must keep written financial records of receipt of PPL pay funds from the Family Assistance Office and of the PPL pay paid to an employee.*



7. *The employer must notify the Family Assistance Office:*

- *if and when an employee returns to work;*
- *if and when an employee is no longer engaged with the employer;*
- *if the employer changes their bank account details or employee's pay cycle;*
- *if the employer had been advanced an incorrect PPL funding amount by the Family Assistance Office;*
- *if the employer is unable to provide PPL pay to the employee.*

8. *Employers must return any unpaid PPL funding amounts to the Family Assistance Office.*

9. *A PPL employer must notify the Family Assistance Office in advance of ceasing to trade, selling the business, transferring ownership or merging with another business.” (Crozier, D 10 May 2010)*

These requirements represent a substantial impost and intrusion on the day to day activities of a small business employer. If one accepts the comment in the Government's RIS that *“many small businesses will remain unaffected indefinitely”*, it raises the question of how a small business employer is meant to remain cognisant of these requirements if their experience of the PPL is indeed haphazard or infrequent.

It is the Guild's contention that our members will suffer a considerable unwarranted burden arising from the PPL, should the paymaster function be retained. This is due to the likelihood of a high incidence of PPL claims in our sector, given the predominance of women in the workforce. As one member wrote when informed of the content of the draft legislation:

“This is an onerous requirement being placed on small business by the Government. We (individual pharmacies) will need to develop a “system” to pay these employees who aren't currently working and administer the money for the Government which will be an additional, costly and time consuming process which just doesn't need to be there. It seems contradictory for a government to claim to reduce the tax burden for small business, yet support implementation of this scheme where the burden is borne by small business.”

Neither the Productivity Commission nor the Government have attempted to adequately quantify compliance costs for small business, beyond noting that *“these costs are likely to vary depending on the business size.”* It is the Guild's contention that this represents a gross injustice to our members and more broadly to the small business employer community. It introduces additional financial burden and administrative complexity for small business at a time when many small businesses are struggling to understand their new obligations under the national workplace relations regime.

The Guild contends that employers should not be encumbered with the cost and burden of bureaucratic compliance requirements associated with the proposed scheme. Employers should not be PPL paymasters.



The Commonwealth will be the paymaster for the first six months

Perhaps the most ironic aspect of the Government's draft legislation is that for the first six months of the scheme's operation, the Family Assistance Office will fulfil the paymaster function across the entire scheme. The Guild asserts that Commonwealth agencies, such as the Family Assistance Office, have a long standing and well developed capacity to properly be the payers of Government payments.

There simply is no precedent for private sector employers to be agents passing on Government money to their employees. To insist and impose a paymaster function on employers introduces a plethora of opportunity and risk for mal-administration, fraud and non-compliance from no other cause than a benign lack of understanding of their obligations.

The Guild submits that if the Family Assistance Office will be resourced to administer, and will actually be administering, the paymaster function for the entire scheme for the first six months of operation, it should be adequately and sustainably resourced to continue in that function in perpetuity.

No evidence to support connection to the workplace

The argument presented in the Productivity Commission Draft Inquiry Report 2008, that having the payments processed by the employer will create a greater attachment to the workplace for the employee, is not evidenced by the New Zealand Paid Parental Leave Scheme which has been operating since 2002. An evaluation of the New Zealand Scheme completed in 2005/2006 highlighted, with respect to employee attachment, the following:

- *Of the mothers eligible for PPL, two thirds took a period of leave;*
- *Two thirds of mothers who took PPL and returned to work, went back to the same employer;*
- *Overall, 80% of mothers who took PPL returned to work but not necessarily the same employer;*
- *Factors such as the need to maintain family income or careers were likely the stronger drivers for women's long term labour market attachment, but the right to return to the same employer was likely to reduce job search costs and uncertainty about family income. It was noted that at the time of the review there were labour shortages and this may have been the incentive that attracted back employees.*

This evaluation supports the view of the Guild that the likelihood of an employee returning to the workforce following PPL will not be significantly influenced by the payroll system that makes the PPL payment. Employees will make decisions to return to the workforce based on their individual family circumstances.

Also in our earlier submission on the PPL, the Guild highlighted an Australian Institute of Management study into the main factors that influence an employee's decision to leave or stay in a job. The study revealed that meaning, purpose and relationships are the key



motivational influences in retaining employees. These factors strongly outweigh pay and benefits as retention factors. (What Keeps Employees Engaged with their Workplace, December 2006 Survey Results) The survey identified the most important factors keeping employees engaged are:

- *A sense of purpose and meaning in my job;*
- *A good relationship with my co-workers;*
- *A good relationship with my manager; and*
- *New and interesting challenges.*

These survey results support the view of the Guild that an employee's attachment is determined by factors within the workplace and not the system which pays the PPL payment. Under the proposed PPL scheme, the employer performing the role of paymaster will not in any way substantially support a connection to the workplace. The Government has not provided any evidence in any forum that shows a case for the alternative view.

Recommendation 2: "Opt in" as paymaster a decision of business

While not relinquishing the Guild's primary position, the Guild can see merit in amendments to the draft legislation that would allow an employer to "opt in" as the paymaster for their employees under the PPL scheme.

The removal of the paymaster function for employers is the preferred position of the Guild. However, an amendment to the current exposure draft, that provides an "opt in" mechanism for businesses who wish to be a paymaster, would be a satisfactory compromise in the Guild's view.

It is the Guild's secondary position that an "opt in" provision would allow small/medium enterprises to individually assess both the perceived benefit of the paymaster function against the identified costs and administrative burden.

This option, which is also supported by ACCI as an alternative to the current drafting of the legislation where all employers will be paymasters, would allow small business operators, such as pharmacy proprietors, to make a choice to administer payments to their employees, or alternatively exercise a legislated right to be exempt from performing this role, in which case the payments would be administered by the Family Assistance Office.

Such an opt-in mechanism may appeal to employers who already provide paid parental leave to their employees, with a top-up of the Government's PPL to be provided by the paymaster function. However, the decision to do this should not be forced onto a business.



Summary

This is the Guild's fourth submission to the Government on PPL, having participated in inquiries in July 2008, November 2008 and October 2009. The Guild has participated in consultations with both the Council of Small Business of Australia and the Australian Taxation Office. However, the Guild has so far not been invited to engage in a one-on-one consultation regarding this matter, which is a high priority for the community pharmacy sector.

The Guild therefore strongly urges the Senate Community Affairs Legislation Committee to provide the Guild with the opportunity to address the Committee during oral submissions.

This will enable the Guild to present case studies that demonstrate the significant impact that the paymaster function will have on pharmacy employers and show just cause why the Exposure Draft should be amended so that the requirement for private sector employers to be the paymaster is removed.

The Pharmacy Guild of Australia
11th May 2010

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