

11 May 2010

Naomi Bleeser
Committee Secretary
Australian Senate
Community Affairs Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600
community.affairs.sen@aph.gov.au

Dear Ms Bleeser,

The Group of Eight (Go8) welcomes the opportunity to provide a submission to the Committee's consideration of the Government's Paid Parental Leave (PPL) scheme. We commend the Government for taking the leadership on an issue which is vitally important for the health and well-being of Australian families and the future productivity of the country.

The Go8 is a coalition of Australia's eight most research intensive universities who employ approximately 44,000 people, including 23,000 women. Paid parental leave is a long established entitlement in the university sector. The Go8 universities all have comprehensive parental leave provisions with periods of paid leave varying from 26 – 38 weeks leave plus a host of other related entitlements.

Our views are outlined in the attached submission which was sent to the Government as part of the Government's consultation process. We are pleased to see the Government has taken on board many of our concerns in regard to reducing the cost burden carried by employers in implementing this scheme.

We would like to bring to the Committee's attention our proposal for the Government to provide some level of reward for employers who currently demonstrate they promote the broad objectives of the Government's PPL scheme, and to provide some incentive for employers who do not to move in that direction.

We believe if employers can demonstrate that they have comprehensive parental leave provisions, inclusive of paid parental leave, the Government should not require these employers to act as administrators for the Government PPL. Such an approach would reduce the impact of the scheme on model employers, as well as, simplifying the administration of the scheme for Government.

Please do not hesitate to contact Jenny Robertson, Deputy Director, Human Resources, the University of Western Australia and on 08 6488 3031, 0417 942 080 or jenny.robertson@uwa.edu.au should you wish to further discuss any aspect of this submission.

Kind regards

Michael Gallagher
Executive Director

GROUP OF EIGHT UNIVERSITIES – SUBMISSION REGARDING: THE GOVERNMENT PROPOSED PARENTAL LEAVE SCHEME.

Introduction

This submission is made on behalf of the Group of Eight (Go8) universities. Ms Bernadine Caruana, Director Policy, Go8 and Ms Jenny Robertson, Deputy Director Human Resources, University of Western Australia participated in a consultation forum held in Melbourne on 3rd September 2009. This forum provided an opportunity to give feedback and to pose questions concerning the implementation of the proposed Paid Parental Leave (PPL) scheme to Federal Government representatives. There was a wide ranging discussion that raised a number of potential challenges many of which will be addressed in this submission. The efforts of Mr Mark Warburton, Branch Manager, Paid Parental Leave Branch, Department of Families, Housing, Community Services and Indigenous Affairs, in the consultation process are particularly acknowledged, and the difficulty he and his team face moving forward is appreciated.

The Go8 appreciates this further opportunity to participate in the constructive dialogue concerning the PPL scheme. Given that the enabling legislation is timetabled for passage in June 2010 the opportunity for amendments to streamline the scheme's operation remains.

The Group of Eight Universities

The Group of Eight (Go8) Universities is a coalition of leading Australian universities, intensive in research and comprehensive in general and professional education. The member universities of the Go8 are:

The University of Western Australia;
The University of Melbourne;
The Australian National University;
The University of Sydney;
Monash University;
The University of Adelaide;
The University of Queensland; and
The University of New South Wales.

The Go8 universities employ approximately 44,000 people, including 23,000 women. Over half of the female staff body are engaged in the generally lower paid, non-academic classifications.

Paid parental leave is a long established entitlement in the university sector. The Go8 universities all have comprehensive parental leave provisions with periods of paid leave varying from 26 – 38 weeks leave. Other common features of parental leave provisions across the Go8 universities include:

- unpaid periods of leave of up to 104 weeks;
- paid partner leave (includes recognition of same sex partners);
- sharing of paid leave between primary carers;
- parental leave entitlements apply to adoption;
- options for staying connected to the workplace during the leave period;
- in many cases provision of onsite facilities for breast feeding mothers and childcare facilities;
- Return to work options that are aimed at supporting the transition back to the workplace, supporting the employee's future career and achieving individual life balance.

Go8 Position

Objectives of Government PPL

The Go8 universities (indeed all Australian universities) are able to clearly show they support the provision of paid parental leave and the benefits that flow for employees, employers and the community more widely. Therefore the Go8 universities are fully supportive of the objectives of the Government's Paid Parental Leave scheme, namely to:

1. Enhance child and maternal health and development.
2. Facilitate greater workforce participation for women.
3. Promote gender equity and work/family balance.

The Go8 universities believe their existing parental leave schemes serve to promote the very objectives the Government has for the Government PPL Scheme. Indeed the Government might reasonably regard the university sector as a champion for the objectives it has espoused and potentially a means of encouraging more employers, particularly, large employers, to follow a similar lead in the provision of comprehensive parental leave provisions.

Principal Concern

The principal concern that the Go8 has in relation to the implementation of the scheme is the proposed method of payment, in particular, the decision that employers will be responsible for passing on the Government PPL payments to eligible employees.

The rationale provided for the employer making the payment of Government's PPL on their behalf is stated as ***"to ensure primary carers (predominantly women) stay connected with the workplace"***. It is appreciated that this reasoning has validity in circumstances where comprehensive parental leave provisions do not exist and there is a need for a cultural shift in terms of recognising the broader benefits of paid parental leave. However, in circumstances where those broader benefits are understood and supported by the provision of comprehensive parental leave the rationale is not justified. Indeed it could be argued that the proposed approach is based on the lowest common denominator, in this case the employer that provides no form of paid parental leave. The Go8 suggests the government should be questioning whether:

1. Their approach affords appropriate recognition to those employers who already provide paid parental leave, of which universities are one group.
2. Their approach provides an incentive for those employers who do not currently provide paid parental leave to introduce such provisions (above the Government PPL).

If the answer to the above questions is no, and the Go8 Universities would say it is, then the Government should revisit the proposed scheme to provide some level of reward for employers who currently demonstrate they promote the broad objectives of the Governments PPL scheme, and to provide some incentive for employers who do not to move in that direction.

The Go8 universities believe one way of promoting this outcome would be to revisit the current proposal that all employers make the payments under the Government PPL to employees. If employers can demonstrate that they have comprehensive parental leave provisions, inclusive of paid parental leave, the Government should not require these employers to act as administrators for the Government PPL. Making these employers administer the Government PPL payments (as is proposed) will do nothing to increase the individual employee connection to the workplace. If anything it serves to confuse the administration of parental leave for the employer and the employee and could potentially give rise to disputes as a result of complications introduced by the existence of two separate parental leave entitlements.

It became clear during the consultations that the implementation of the payment aspect of the Government PPL is a mammoth task for the Government departments involved. Arguably these Government departments would benefit from a tiered approach with respect to which employers are to make payments on their behalf to employees. If those employers with comprehensive parental leave provisions, including paid parental leave, were excluded this would **reduce the number of employers the Government would need to make payments to, reducing the number of payroll cycles and systems that the Government departments need to obtain knowledge of and maintain payments to.** The Government has stated that the scheme has been designed to “minimise the impact on employers” and to “impose minimal new costs” on employers. Both of these aims would be more readily achieved if the Government were to revisit the proposed method of payment as outlined above.

The Government has an opportunity to draft the relevant legislation to provide a level of recognition and reward for those employers be they small, medium or large who currently promote the objectives of the Governments PPL scheme by providing comprehensive, employer sponsored parental leave. The opportunity also exists to structure the administration of the Government PPL scheme in a manner that provides an incentive for more employers to provide comprehensive parental leave provisions. The Go8 universities strongly encourage the Government to grasp this opportunity and incorporate the necessary provisions in the legislation.

Administrative challenges

The current guidelines for the PPL scheme present a number of challenges and areas of concern, a number of which are particularly relevant in the university sector given the mix of employment offered and relatively large numbers of employees in fixed term and casual categories. These matters are summarised below.

Eligibility Criteria:

How are the proposed eligibility criteria to be interpreted? In particular, how will the requirement to “work continuously” for at least 10 of the last 13 months prior to the birth or adoption be interpreted? What will be deemed continuous in relation to casual employment, seasonal employees and other forms of non standard employment?

Casual Employees:

The intended treatment of eligible casual employees remains unclear. Clarity is required in terms of who is intended to make the payment, that is, the Family Assistance Office (FAO) or the employer? Further what happens in situations where there are multiple employers? What happens when employment ceases with one employer and commences with another? In the consultations it was suggested employers would not be expected to make payments to people who are no longer contractually engaged to them. This would suggest in the vast majority of cases casuals will be required to receive some or all of their Government PPL payments from the FAO.

Payment Administration

Clarity is required concerning the intended method of payment to employers, that is, lump sum in advance or instalments linked to payroll cycle? How will the FAO accommodate any employer shutdown periods, in terms of the provision of funding for the Government PPL? It is unclear what the responsibilities would be in circumstances where overpayments occur. Who is responsible for recovering the overpayment and who is legally able to do so? It may not be the case that employers are legally empowered to recover overpayments of this nature and FAO may have to instigate separate debt recovery processes. If this is the case, will the employer be liable for the overpaid funds?

Human Resource Information Systems

It will be necessary for employers to ensure that nothing in the licensing arrangement with various Human Resource Information System (HRIS) providers precludes the pay arrangement as proposed under the Government PPL scheme. It will need to be determined what amendments are required to HRIS systems both to facilitate payments and to enable any reporting requirements to be met. Should any systems enhancements incur a direct cost to employers, it is our position that they should be fully compensated by Government.

Reporting Requirements

Clarity is required as to what level of reporting the Government will require of employers. This clarity is required prior to implementation of the scheme in order to ensure Human Resource and Financial Information Systems can easily generate the data required. Clarity is also required as to how amounts paid as Government PPL should appear on payment summaries of employees.

Payroll Tax and Workers Compensation

At the time of the consultations Government representatives were hopeful that issues relating to the application of payroll tax and workers compensation to the Government PPL would be resolved. Clarity is sought as to whether these issues have been resolved. If these issues have not been resolved then this would represent a direct cost for employers and consistent with the Government's stated position to impose minimal costs on employers the Government should provide financial compensation to employers or avoid the need to do so by making payments of Government PPL directly to employees.

Dispute Procedures

There will be disputes arising as to eligibility, payment and administration of the proposed PPL scheme. A process for dealing with disputes needs to be determined and communicated to all parties. Employers and employees will need to be educated about the scheme, respective roles and where to access advice and assistance. There may be a tendency for employees to approach their employers for advice about the PPL scheme. It is not appropriate for employers to provide advice on the scheme and clear points of contact and referral to Government officers need to be made available.

Unintended Consequences

There will undoubtedly be a number of unintended consequences that may only surface after the implementation of the scheme. Government needs to consider providing facilitative provisions within the legislation that allow some means of addressing these without the need to amend the legislation. One such area where there may be significant unintended consequences relates to the stipulation that no paid work can be entered into during the period of Government PPL. The rationale provided for this requirement related to promotion of "work/life balance" where "work" and "life" are seen as mutually exclusive. It is suggested life balance may be a more useful concept and this will mean different things for different people. For some employees, particularly where their work is their passion as is the case with many academic staff; it is quite conceivable that they will achieve life balance satisfactory to them during a period of parental leave whilst engaging in some aspect of work. These employees should have the flexibility to do so without forfeiting their entitlement to access the proposed Government PPL.

The Go8 universities are appreciative of the opportunity to provide input and trust that the points made in this submission will be considered in the spirit in which they are made. Our intention is to assist the Government in designing PPL scheme so that it is even better able to meet the Governments objectives, which the Go8 universities fully support.