Paid Parental Leave Amendment (Flexibility Measures) Bill 2020

Finance Sector Union Submission to the Senate Standing Committee on Community Affairs

March 2020

Finance Sector Union

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Introduction

The Finance Sector Union of Australia (FSU) is the trade union representing employees working in the banking, finance and insurance sector. This industry consists of approximately 458 900 employees nationwide (approximately 3.5% of the workforce)[1] , with women making up approximately 54.7% of the total number of workers within the sector[2].

The finance industry was one of the early adopters of paid parental leave and has led the way in introducing initiatives to improve flexibility and encourage the sharing of paid leave between both parents. This short submission will firstly provide insights into the some of the initiatives that have already been introduced in the finance industry to give families additional flexibility in accessing leave when a baby arrives in their household, and the second section will identify some of the pitfalls and unintended consequences we have identified both in employer provided paid parental leave as well as the government scheme. Finally, this submission makes some recommendations for the proposed Paid Parental Leve Amendment (Flexibility Measures) Bill 2020.

If you would like further information on this submission, please contact Angela Budai, National Women's Officer and National Industrial Officer

[1] http://lmip.gov.au/default.aspx?LMIP/GainInsights/IndustryInformation/FinancialandInsuranceServices
[2] https://data.wgea.gov.au/industries/27#summary_content

The Experience of Paid Parental Leave in the Finance Industry

The finance industry was one of the early adopters of paid parental leave. Employers in the finance industry have long recognised that the benefit of providing a suite of family friendly initiatives to their staff far outweighs the bottom line. Since the mid to late 1990s through the system of enterprise bargaining large banks and insurance companies have been providing their employees with paid parental leave and a supporting range of family friendly provisions. The finance industry has the related problem of a very large gender pay gap, and several employers in the finance industry are trying to reduce this gap by actively encouraging their male employers to take up more of the traditional caring roles by making paid parental leave more flexible.

According to the 2018 Workplace Gender Equality Agency report 76% of employers in the finance industry provide paid parental leave, on average at full pay for 12 weeks that is in addition to the government paid parental leave scheme. These recent developments are described below.

Removal of the 12-month qualification period and providing leave to all permanent employees who have completed their probation period

The full-time gender pay gap in the finance industry is 29.3%. Wage setting for most of the finance industry is reliant on performance – measures that are well understood to be subjective and that contribute towards the gender pay gap[3]. For many finance workers the most effective way to get a pay increase is to move jobs as employers need to pay the "market rate" to attract staff. When women want to start a family, they are less likely to move jobs as they know that they will need to complete a "qualification" period of 12 months before they are eligible for paid parental leave. The move by several employers to reduce the qualification period (or remove it completely) acknowledges that this is a factor that contributes to the large gender pay gap in our industry.

Removing a distinction between primary and secondary carers and instead providing paid parental leave to all parents on the birth or placement of a child in their household

An increasing number of employers in the finance industry have moved away from the rigid definitions of "primary" and "secondary" carers and are instead, offering paid parental leave on the birth or placement of a child to all parents regardless of gender or the traditional "primary" and "secondary" carers roles.

Removing the limitations on the timing and duration of concurrent leave

Employers in the finance industry have realised that families are best placed to decide when and how they access paid leave to support the introduction of a new baby into the family unit. There is a recognition that for some families there are factors that mean provision of longer periods of concurrent leave is both beneficial and medically necessary. Rates of caesarean section births in Australia is significant[4] and women who give birth by caesarean section are more likely to need additional support in the home for up to 6 weeks post birth as they physically recover, this may be higher in the case of high risk pregnancies, the birth of multiple children or for complications suffered during birth. The limitation of concurrent leave to 2 weeks for the "secondary carer" after the birth puts unnecessary stress on families. Employers in the finance industry have recognised that there are a variety of reasons that families might need additional concurrent leave and have increased flexibility of accessing this leave to allow families to make decisions that are best for their individual circumstances.

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[3] https://www.wgea.gov.au/data/fact-sheets/australias-gender-pay-gap-statistics
[4] https://www.aihw.gov.au/reports/per/095/ncmi-data-visualisations/contents/labour-birth/b5

Increasing the flexibility of when and how paid parental leave is accessed

The finance industry has several employers who are moving away from a rigid “x” weeks paid leave that must be taken in a single period, and instead are increasing the flexibility about how and when the leave can be accessed. For birth mothers there is still a period of 6 weeks after the birth of the birth of the child that is quarantined (except with medical clearance in some circumstances), however the balance of the paid leave can now be taken flexibly. This may mean in blocks of time, in single days, or even as part of a transition back to work as proposed in the Paid Parental Leave Amendment (Flexibility Measures) Bill 2020. The key is that parents need to have the flexibility that works for them and that will mean different things to different families. It may also change over time.

Extending the period for which parental leave can be accessed

Many companies in the finance industry are providing paid leave that can be accessed at any time in the first 2 years after the birth of the child. This provides for additional flexibility for workers, particularly those who work in capital cities where childcare for under 2s is both scare and expensive.

Limitations of Current Paid Parental Leave Schemes in the Finance Industry

While the move by several companies in the finance industry to improve the quantum and access of paid parental leave for their staff is welcomed by the FSU, there remains several limitations and concerns with the operation of these schemes. These limitations and concerns are outlined below.

Quantum of paid leave is still too short

While the finance industry was one of the early adopters of paid parental leave the quantum of paid parental leave schemes has not changed since they were first introduced. Most employers in the finance industry still only pay 12-14 weeks of paid parental leave which falls short of the 26 weeks that is recommended by the World Health Organisation. There have been increases to the paid parental schemes themselves however the amount of paid time away from the workplace has not increased in the past 30 years.

Right to request is still only a right to request

The right to request flexible work is still only a right to request. There are numerous examples that the FSU can point to of women who have had their request for flexibility denied after a period of parental leave and in most cases this had led to these women choosing to resign from the workforce rather than return to work part time. Experiences from FSU members suggest that this is due to both the cost and availability of high-quality childcare. Those who choose to remain in the workforce often accept hours that are unsuitable and in some cases the cost of childcare – which is most often charge by the day – is greater than their after tax income. These workers continue to work in order to maintain workforce connection and skills as well as to ensure they are continuing to contribute toward their superannuation. Some of these workers must rely on assistance from family members to provide childcare – often aging parents and grandparents find themselves taking on these roles. Their lack of bargaining power and agency at work leaves them feeling powerless. In 2018 the full bench stopped short of providing a mechanism for independent resolution of these matters in order to allow reasonable time for the model clause to operate. It is now time to revisit the need for an independent umpire to arbitrate disputes about flexible working arrangements.

Flexibility is only available if mutually agreed

While there are several employers in the finance industry who are introducing a variety of flexibilities for working families these are always only available to workers who can reach mutual agreement with their line manager. This means that it is often workers who are in lower paid roles and who have less agency at work are excluded from participating in these schemes. Unfortunately, workers who are already marginalised at work or who do not have understanding bosses are excluded from these schemes due to the lack of obligation for their employer to make any genuine attempt to find a mutually acceptable arrangement.

Recommendations to the Senate Standing Committee on Community Affairs

That the payment rate for paid parental leave scheme be lifted to average weekly earnings

Payment of the paid parental leave scheme is currently pegged to the minimum wage rather than reflecting a worker's actual weekly income. This has the impact of providing a disincentive for male parents who are often higher income earners from taking on caring responsibilities. Increasing the payment to average weekly earnings may make paid parental leave more attractive to those who traditionally take on the "secondary" caring role.

Increasing the quantum of the paid parental leave scheme

World Heath Organisation recommendations are that newborn children are breastfed for the first 6 months of their lives. FSU recommends increasing the quantum of the paid parental leave scheme to a minimum of 26 weeks to reflect best practice

Introducing a right to flexible work

At the moment there is no obligation on an employer to provide flexibility to a worker after the birth of a child. The experience in the finance industry is that while the introduction of additional flexibility is welcome it is generally only effective where there is a supportive workplace culture. Where there is workplace conflict or in circumstances where employers must go out of their way to accommodate flexible work, workers often miss out. The proposed Bill introduces additional flexibility however, there is no obligation on an employer to provide this flexibility on request.

Removal of the qualification period to access the parental leave scheme

The current paid parental leave scheme is not flexible enough to ensure that most working parents can access the scheme.

Removing the distinction between primary and secondary carers

The paid parental leave scheme is currently almost exclusively accessed by women and this reinforces the structural disadvantages in our system whereby women suffer a gender pay gap in their day to day earnings as well as the cumulative impact of lower retirement incomes. This is further reinforced by the naming of the governments secondary paid parental leave scheme as "Dad and Partners" clearly signalling that the paid parental leave scheme should be accessed by women. In order to break down structural inequality and encourage more "secondary carers" who are often men, to take on the caring load the government should make this scheme available to all parents.