

ACTU ANSWERS TO QUESTIONS ON NOTICE

Question 1

Senator DAVID POCOCK: Thank you, Ms Peldova-McClelland. You mentioned a survey at the start of your statement. I'm interested in which survey that was and what year the data is from.

In addition to the response provided to the Committee on 14 August 2023, the ACTU provides the following further response. The Australian Human Rights Commission released the Supporting Working Parents: Pregnancy and Return to Work National Review in 2014 (available here: [Supporting Working Parents: Pregnancy and Return to Work National Review - Report | Australian Human Rights Commission](#)).

The Australian Human Rights Commission has not done a follow up study since 2014, but the ACTU is aware of a national study currently being undertaken by Dr Rachael Potter and colleagues at the University of South Australia to better understand the work conditions of pregnant persons, parents on leave, and those who have returned to paid work since the birth or adoption of a child - [National Study on Parents' Work Conditions: Pregnancy, Leave and Return to Work - Research - University of South Australia \(unisa.edu.au\)](#)

The initial findings of the national study are very concerning – for example:

- 42% of survey respondents were not informed of changes that could impact them whilst on parental leave, and 18% had their role permanently replaced.
- Upon return to work, 36.4% received negative or offensive remarks regarding being seen as a less committed employee.
- 40% received no information about their return to work entitlements.¹

Slides containing the initial findings of the national study are attached.

Question 2

Senator DAVID POCOCK: Is that evidence in your submission?

Ms Peldova-McClelland: I believe it is. Is there anything you would like me to take on notice, just in case it isn't in our submission?

Senator DAVID POCOCK: I think you said that administering it makes it more likely for—I'd be interested in data showing that.

Ms Peldova-McClelland: Yes, that is in our submission. I might just make a note, if I have anything additional to add, to come back to you on notice.

In addition to the response provided to the Committee on 14 August 2023, the ACTU refers the Committee to the following material:

¹ Potter et al. (2023). National Study on Parent's Work Conditions: Pregnancy, Leave and Return to Work Preliminary Results.

- a) The Submission to the Committee of the Australian Council of Trade Unions. For example, see the case study outlined at pages 6-7.
- b) The Submission to the Committee of the Department of Social Services, Department of Employment and Workplace Relations, Services Australia, dated May 2023. For example, at page 9, it states: *"The PPL evaluation, conducted between 2010 and 2014, demonstrated that PPL encouraged women to return to the same job with the same employer, preventing (or at least reducing) the potential loss of human capital. This suggests a strengthened link with the employer while on leave and that PPL increased mothers' attachment to their jobs because the paid leave was provided to them through their employers."*
- c) The 2009 report of the Productivity Commission: Paid Parental Leave: Support for Parents with Newborn Children - [Paid Parental Leave: Support for Parents with Newborn Children - Inquiry report \(pc.gov.au\)](https://www.pc.gov.au/research/other/special/parental-leave).
 - For example, at page 89: *"Arrangements for paying leave should as much as possible support the underlying objectives of the policy, while being as far as possible 'straightforward, simple, cost effective and not administratively onerous for either families or the administrators'... Given the desire to link paid parental leave to work, where an employee has reasonable tenure with an employer, the employer would act as an agent for government and pay the statutory leave payment on its behalf. This is the arrangement used in the United Kingdom... Structuring payments in this way would strengthen the link between the employer and employee, which should increase retention rates for the business (and lead to higher lifetime employment by women)."*
 - At page 273: *"The intention is to signal that paid parental leave should be perceived as a normal feature of employment arrangements, notwithstanding that it would be taxpayer-funded and therefore perceived by some as welfare. The Commission considers its approach should also help stimulate changes of attitude towards parents in the paid workforce who attempt to balance paid employment and family life."*
 - At page 333: *"The Commission also considers that the administrative burdens on firms delivering taxpayer-funded parental leave need to be weighed against the retention benefits that the proposed scheme will deliver to many, if not most, employers not currently offering paid parental leave voluntarily."*

The ACTU also draws the Committee's attention to employer group submissions made to the Productivity Commission in 2009, which indicate that those employer groups did not consider that employees on unpaid parental leave were in an "active employment relationship" with the employer, and that the scheme was "not part of the employment relationship", and therefore employers should not be involved in making payments. This demonstrates the concerns that the ACTU has that if the employer has no role to play (or perceives that they have no role to play), the employment relationship and connection can be substantially weakened or even severed, and is also demonstrative of a misunderstanding of the nature of the employment relationship and employer obligations under the Fair Work Act. For example, see the Productivity Commission Report:

- At page 332: *"Similarly, ACCI argued that the Commission's proposed scheme should use existing public sector administrative and payment processes as they would avoid: ... the confusion inherent in employers continuing to pay 'wages' or some quasi wage-*

like payment on behalf of government to employees who are no longer working for them in a daily or active employment relationship. (sub. 135, p. 50)."

- At page 333: *"But the Chamber of Commerce and Industry Western Australia took issue with this assessment: The argument ... that employers already play a large role in the "provision and/or administration of a range of employment related entitlements", does not recognise that the scheme proposed would not form part of the contract of employment or part of the employment relationship and as such is significantly different to other leave entitlements such as sick leave, annual leave or long service leave. (sub. DR316, p. 2)."*

Question 3

Senator KOVACIC: Thank you. In relation to the keeping-in-touch days, that's actually quite an interesting concept in relation to consent: it needs to go both ways and both parties should want to opt into it. I'm trying to understand: if someone's trying to maintain a connection and we feel that administering this payment on behalf of the Commonwealth is the only way—that this is the thing on which this relationship existing or continuing is contingent—why wouldn't you want to build more into that with seeking to participate in keeping-in-touch days? Why would you want your employer to make you a payment but not want to actually keep in touch with them physically? That doesn't make a lot of sense to me, on balance.

In addition to the response provided to the Committee on 14 August 2023, the ACTU provides the following further response.

Keeping in touch days are a way for employees on parental leave to stay up to date with their workplace, refresh their skills and assist their return to work. Employees on unpaid parental leave are entitled to 10 keeping in touch days, and if they extend their period of unpaid parental leave beyond 12 months they can take an additional 10 days.

Both the employer and the employee have to agree to the keeping in touch days, and an employee doesn't have to use keeping in touch days if they don't wish to. A day will be a keeping in touch day if the purpose of performing the work is to enable the employee to keep in touch with their employment in order to facilitate a return to that employment after the end of the period of leave. Work on a keeping in touch day may include things like participating in a planning day, doing training or attending a conference.

There may be many reasons why employees are unable to use their keeping in touch days, such as not being able to organise childcare arrangements in order to attend work.

National Study on Parental Work Conditions:

Pregnancy, Leave & Return to Work

Dr Rachael Potter



Acknowledgements



Research Team

Ms Sophie Richter, Prof Kurt Lushington, Prof Maureen Dollard, Ms Kate McFarlane, Mrs Kirsten Foley, Ms Sarah Cleggett, & Prof Paula Brough

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Current Context

- According to 2021 data, there are **1,990,909** households with young children, representing **20.3%** of all households (Australian Bureau of Statistics, 2021).
- The percentage of parent couples with children under 18 years where **both partners work** is **increasing** steadily, from **53%** in 1996 to **61%** in 2016 (Australian Institute of Family Studies, 2018).

A 2014 report found that **49%** of mothers reported experiencing discrimination at some point during pregnancy, parental leave or on return to work, while **27%** of fathers and partners experienced discrimination

(Australian Human Rights Commission, 2014).

Challenges

- Structural inequality around parental leave access in Australia (Raub et al., 2018)
- “Guilt for mothers is like grapes to wine” (Fay Weldon)
- Lack of sleep, especially for mothers (Richter et al., 2019)
- Perceptions (self and others) (Pronzato, 2009)
- Saying no (only 168 hours in week) (Kearns, 2019)
- Lack of knowledge or awareness of rights
- Performance pressure (i.e. continuous upward trajectory)
- Project-based work & short contracts
- Narrative and national culture



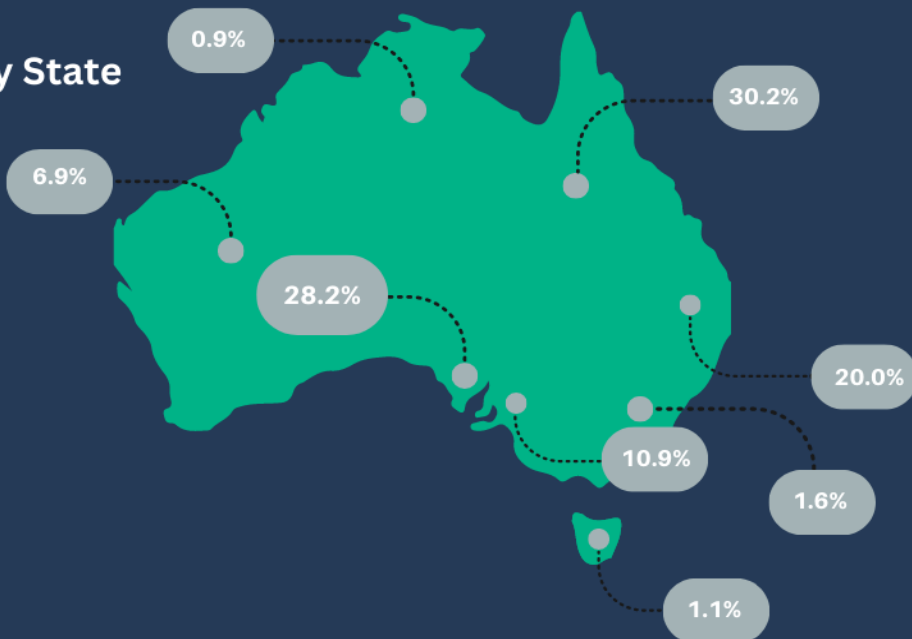
Our Study

- Extends and transforms the Australian National Prevalence Survey (Australian Human Rights Commission, 2014).
- **3 phase survey**: plus Negative Acts, PSC, Burnout, Work-Life Balance, Work-Life Satisfaction and Work Engagement.
- Captures both **quantitative and qualitative** data from parents of **all genders** about their experiences, possibly informing a validated tool in the future.
- Greater focus on **contextual questions** (e.g. leave taken).

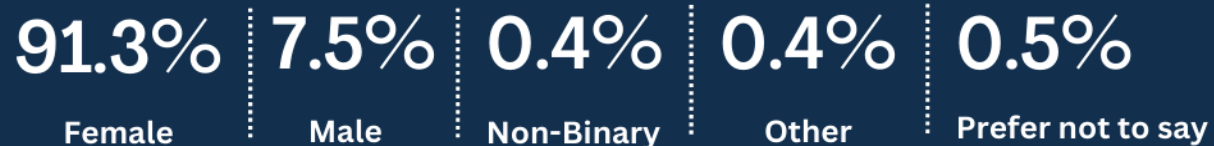


Demographics

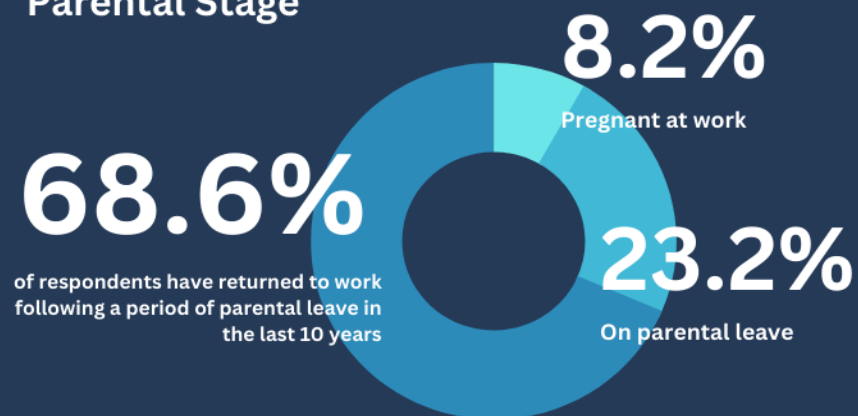
Location by State



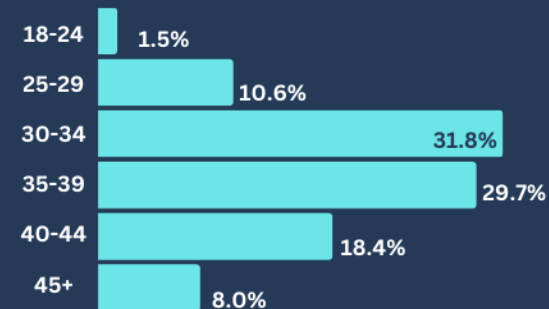
Gender Identity



Parental Stage



Age Groups

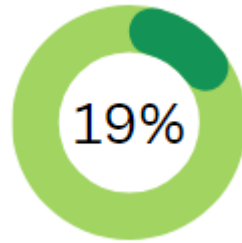


Findings Pregnancy

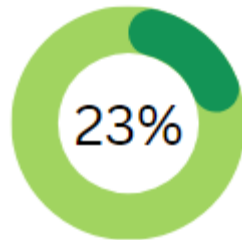
One third had their job altered against their wishes



Had key areas of responsibility removed or replaced with more trivial or unpleasant tasks



Felt that they needed to hide their pregnant belly.



Findings Pregnancy



Received **no** information
about upcoming leave
entitlements.

29.3%

Did not receive training
that they would have
otherwise received.

20%

Contract not renewed.

8%

Findings

Parental leave

42%

Not informed about
changes that could
impact me.



Would have liked to take more
leave to care for their child.

37.4%

Of people's partners did not
have access to/or were
denied access to flexible work
arrangements.



Findings Parental leave



Didn't receive a pay rise or bonus - or received a lesser pay bonus than peers.

24.4%

Pressured to change parental leave dates

19%

Had their role permanently replaced.

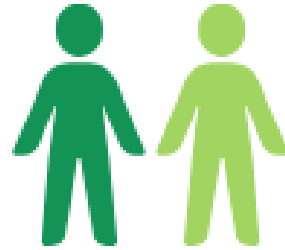
18%

Findings Return to Work

36.4%



Received negative or offensive remarks regarding being seen as a less committed employee.



Over half (55.4%) were still expected to meet deadlines even if they or their children were sick.

39%

Were provided with less opportunities for career advancement and/or promotion.

Findings Return to Work

59%

Had access to flexible work arrangements.

40%

Received **no** information about their return to work entitlements.

25%

Were not provided appropriate breastfeeding or expressing facilitates.



Qualitative Results

“I had to fight to remain employed just after returning to work, despite being an experienced, hard-working and previously valued employee.”

“I was bullied upon my return and made to lift heavy kegs and alcohol cases. The stress affected my breastmilk, and I was made to express in the toilet.”

“I was told I wouldn't want to return to work as I would be “clucky”. My career was severely impacted by my pregnancy, and I was forced to give up my team leader role.”

“I feel like I miss opportunities because I’m ‘just a Mum’, only work four days a week or might get pregnant again.”



Insights and Recommendations

- **Discrimination is rife – know your rights & be informed**
- **Sex Discrimination Act:** The Australian Human Rights Commission provides information and addresses claims of discrimination.
- **State & Territory Anti-Discrimination Laws:** Make it unlawful for an employer to discriminate against employees on various grounds including sex, pregnancy, breastfeeding and family responsibilities. Updated in December 2022 – with specific reference to breastfeeding persons.
- **Fair Work Act:** The National Employment Standards. Delineates leave rights, keeping in touch provisions, transfer to a safe job, or 'no safe job' leave; consultation rights while on parental leave, return to work guarantee and right to request flexible work arrangements.
- **WHS Laws:** Employers' obligations to ensure that the workplace is healthy and safe for all workers (Australian Human Rights Commission, 2015).

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SCAN THE CODE



**BE PART OF A
NATIONAL STUDY
FOR PARENTS
PREGNANCY, PARENTAL
LEAVE AND RETURN TO
WORK**

AVAILABLE NOW FOR ELIGIBLE PARTICIPANTS

This project is approved by the University of
South Australia Human Research Ethics
Committee (Ethics Protocol 204732)

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Thank you

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