

University of Sydney Policy Reform Project

Research Paper for Australian Human Rights Commission: *Experiences of Pregnancy and Pregnancy Leave in the Workplace*

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Acknowledgement of Country

We acknowledge the traditional custodianship and law of the Country on which the University of Sydney campuses stand, in particular the Gadigal people of the Eora Nation. We pay our respects to those who have cared and continue to care for Country, Aboriginal and Torres Strait Islander Elders past, present and emerging. Sovereignty was never ceded. It always was and always will be Aboriginal land.

About the Sydney Policy Reform Project

The Sydney Policy Reform Project ('Project') facilitates University of Sydney students to write research papers for policy organisations, and submissions to government inquiries, under supervision from University of Sydney academics. The Project is a volunteer, extra-curricular activity. The Project is an initiative of the Student Affairs and Engagement Team within the Faculty of Arts and Social Sciences, and the Division of Alumni and Development, at the University of Sydney. The Project is funded by a donor to the University of Sydney. Any inquiries about the Project or about this paper should be directed to the Administrator, Ms Maeve Cairns, at the following email address: <fass.studentaffairsandengagement@sydney.edu.au>.

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Policy Brief

| Paper | Topic | Academic Supervisor |
|-------|--|----------------------------------|
| 2AHRC | Experiences of Pregnancy and Pregnancy Leave in the Workplace | Associate Professor Anna Boucher |

About

We protect and promote human rights in Australia and internationally. The Australian Human Rights Commission (the Commission) is an independent statutory organisation, established by an act of Federal Parliament. The Commission is Australia's National Human Rights Institution.

Every person has inherent dignity and value. Human rights help us to recognise and respect this in ourselves and in each other. You can find further information about our work in sex discrimination at: <https://humanrights.gov.au/our-work/sex-discrimination>

Further information about the Commission can be found on our website: <https://humanrights.gov.au/about>

Background

The literature review, which would aim to identify strategic opportunities for the Australian Human Rights Commission to collaborate with relevant stakeholders and develop a project to consider the experiences of those expecting a baby or who have recently had children. This may include sex discrimination and harassment.

Research questions

In 2014, the Australian Human Rights Commission conducted a national inquiry into pregnancy discrimination in the workplace. This inquiry resulted in a report, entitled [*'Pregnant and Productive: It's a right not a privilege to work while pregnant'*](#). What impact on policy and legislative resulted? And what has been the impact of these changes in Australia, on parents, families, and workplaces?

1. To provide an overview of appropriate national strategies, policies and recommendations from Inquiries, Taskforces, Advisory Bodies, and other reports that consider the impact of parental leave.
2. To outline the experiences of job security and workplace experiences, including workplace safety, sex discrimination, sexual harassment, other intersecting forms of discrimination and systemic discrimination.
3. To highlight the responsibilities and roles of key stakeholders in supporting expectant and new parents to remain in the workforce.
4. To consider any international experiences that could positively inform practices in Australia.

Key Deliverables

- Report on existing reports and analyses on the take up, barriers and impact of paid parental leave. This may include other forms of support, such as employer parental leave programs that may exceed provisions from the Government.
- This report should also provide an analysis of:
 - any barriers faced
 - gaps in current research in this space
 - how national government and other initiatives have supported ensuring parents remain in the workforce
 - any evaluations, surveys or consultations provided
 - whether there is any indication of specific impacts of those who are from culturally and racially marginalised communities, with disability, and/or First Nations.

Preliminary Resources

Any additional list of literature search and references will be provided to students on commencement.

Executive Summary

In 2014, the Australian Human Rights Commission (AHRC) undertook a national review into the experiences and impact of pregnancy, parental leave, and parenthood on employment. It found that discrimination, particularly against women and primary caregivers, was pervasive in Australian workplaces with significant impacts on wellbeing, socioeconomic outcomes, and career progression.

This report seeks to investigate and assess national developments in the Australian industrial landscape since then, as well as to identify enduring gaps in the protection and support of working parents. It aims to identify strategic opportunities to drive continued reform and promote greater equity in workplaces.

Australia is a state party to a suite of core international human rights treaties, which place obligations on the country to uphold and promote the rights and freedoms of all individuals. Australia has made formal commitments to advancing non-discrimination based on race, gender, disability, socioeconomic status, and other intersecting forms of marginalisation (PM&C 2024).

The following analysis finds that discrimination against pregnant employees and employees with caregiving responsibilities continues to be reported, and that there remains room for further progress in legal protections, workplace practices, and policy support. Addressing these challenges is likely to benefit from concerted efforts across government, employers, and advocacy groups. Additionally, this report looks to international models of parental leave which offer valuable insights, including examples from Scandinavian countries, which are often cited for their comparatively generous welfare systems and promotion of shared caregiving.

To address key gaps in protection and practise, this paper puts forward a series of recommendations:

- **Expand and universalise access to Paid Parental Leave (PPL):** By revising eligibility thresholds and ensuring targeted policy consideration for systematically disadvantaged groups, including visa holders.

- **Implement periodic data collection and policy evaluation:** Establish systematic mechanisms to collect data on parental leave use and the workplace experiences of pregnant and parent employees to inform policy development.
- **Education and cultural change initiatives:** Support a national education campaign to improve awareness among Australian employers, workers, and families of PPL policy and entitlements, and to promote shifting workplace norms around gender and care responsibilities.
- **Address structural barriers to equitable access:** Identify and respond to patterns of use, or under-use by specific groups, through targeted reforms and outreach strategies.

While progress has been made, sustained national efforts are essential to ensure pregnancy and parenthood are not barriers to full and equitable workforce participation.

Key Terms

| | |
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| <i>Adverse action</i> | Unlawful conduct by an employer or other person involving an act, plan, or threat that disadvantages an employee or alters their position to their detriment. |
| <i>Casual and non-standard workers</i> | Employees who do not have fixed or ongoing employment contracts. They may work irregular hours and are often excluded from entitlements that require continuous employment. |
| <i>Culturally and racially marginalised groups</i> | Women from ethnically and culturally diverse backgrounds who face structural and systemic barriers to equal access and participation in the workforce. |
| <i>Gender equality</i> | The principle of equal rights, responsibilities, and opportunities in workforce participation and caregiving, regardless of gender. |
| <i>Human rights framework</i> | An international normative foundation recognising the universal and inalienable dignity of every human being. |
| <i>Ideal worker norm</i> | The expectation that the ideal worker is full-time, uninterrupted, and free of caregiving duties. |
| <i>Intersectionality</i> | The interconnected nature of characteristics like race, gender, class, and disability that can compound disadvantage. |
| <i>Paid parental leave</i> | A benefit providing eligible employees with paid leave around the birth or adoption of a child, through government or employer-funded schemes. |
| <i>Tax-to-GDP-ratio</i> | The proportion of a country's total output (GDP) that is collected as tax revenue by the government. |
| <i>Welfare state</i> | A system where the government takes primary responsibility for the social and economic well-being of its citizens. |

Introduction

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) recognises that equality between men and women constitutes a fundamental human right (OHCHR n.d.). Australia ratified the international treaty in 1983, marking a step in the country's commitment to the rights of all people and affirming an obligation to advance gender parity in decision-making, policy formation, law, and attitudes (PM&C 2024; OHCHR n.d.).

Part of realising the right to non-discriminatory work under international law is to understand the experiences of pregnant employees and the impact of pregnancy and family responsibilities on the labour market, including the provision of PPL (OHCHR n.d.). This is important to enable the full participation of citizens in public and private life (see Appendix A for a comprehensive review of national strategies and policies on PPL) (PM&C 2024). Further, equitable workforce conditions support social inclusion and enhances Australia's economic productivity, insofar as the division of childcare duties remains a distinct marker of inequality (The Treasury 2022; The Treasury 2023).

Importantly, pregnancy is a uniquely temporary stage of a person's life and a family's journey, yet it can have lasting influence on employment, economic security, and workplace dignity. Evaluating these experiences may reveal gaps in research, legislation, or frameworks where protections against discrimination may fail to fully address intersectionality, particularly for culturally and racially marginalised groups (CARM), parents with disabilities, diverse gender identities, and First Nations peoples. Insight into current practices can inform policy responses that better support the needs of Australian families.

Background

Overview of Current Structure and Reform

The Paid Parental Leave Act 2010 (Cth) (PPL Act) is the primary legislative instrument governing PPL in Australia. In the latest periodic report to CEDAW, the Government reiterated its intention to review its reservation to Article 11(2), which concerns discrimination against women in relation to maternity (PM&C 2025). The Government introduced the Paid Parental Leave Amendment (More Support for Working Families) Bill 2024 to amend the Act, indicating that by 2026, several changes will take effect, including:

- Shifting towards gender-neutral claiming.
- Increasing the total entitlement from twenty-two weeks to twenty-six.
- Removing the continuous block requirement, offering families greater flexibility in how they use their leave.
- Expanding the concurrency limit and reserved period for each parent to four weeks.
- Introducing the Paid Parental Leave Superannuation Contribution in 2025 (ATO 2025).

Legislative Protection Against Discrimination

In addition to the PPL scheme, Australian law provides protection to pregnant employees and employees with familial responsibilities against adverse action through two key instruments:

- *The Sex Discrimination Act 1984 (Cth)* (SDA) under Section 14 prohibits discrimination in employment on the grounds of pregnancy, potential pregnancy, breastfeeding, or family responsibilities. This relates to decisions such as offering employment, setting employment terms, denying opportunities, or terminating employment. Section 16 extends these protections to contract workers.
- *The Fair Work Act 2009 (Cth)* (FW Act) outlines employee rights, including the establishment of the National Employment Standards (NES), which set out

minimum entitlements to unpaid parental leave (DEWR n.d.; FWO 2024).

These standards operate alongside the PPL Act.

In 2022, the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) revised workplace relations laws to include more gender equality measures, including:

- Adding breastfeeding and gender identity as protected attributes.
- Enhancing the right to request flexible working arrangements for pregnant employees by introducing additional employer obligations prior to refusal.
- Expanding the Fair Work Commission's authority to resolve disputes about flexible working arrangements and extensions of unpaid parental leave (see Appendix B) (FWO n.d.b).

A detailed comparison of key legislative frameworks, including the PPL Act, FW Act, SDA, and state-based anti-discrimination laws, is provided in Appendix C.

Addressing Gaps

In response to concerns about discrimination in the workplace, the Australian Government asked the AHRC in 2014 to complete a national review, which marked the last review of its kind. This resulted in the *Supporting Working Parents: Pregnancy and Return to Work Report* and recommendations for reform under four overarching principles (see Appendix B for the full list of recommendations and corresponding actions to date).

Impact of Paid Parental Leave on Workforce Participation and Equity

Since the introduction of Australia's PPL Act in 2010, patterns of workforce attachment have shifted (Broadway et al. 2020; Hondralis 2017). Parents are less likely to return to work during the months of wage replacement, but return rates rise sharply once the scheme ends; within one year, mothers are more likely to resume their pre-birth jobs under comparable conditions, signalling improved job continuity (Broadway et al. 2020; Hondralis 2017). However, these outcomes do not fully capture the experience

of pregnancy or parental leave in the workplace. Research shows that career advancement remains constrained during pregnancy leave and after returning to work as a parent, and the effects of PPL are experienced unevenly across the population (Broadway et al. 2020; Potter et al. 2024). While the scheme plays a notable role in supporting work-life balance among structurally marginalised communities, single mothers, mothers born outside of Australia, and Aboriginal and Torres Strait Islander mothers remain underrepresented as users of PPL (Baxter & Budinski 2023; Broadway et al. 2020). Young mothers and mothers with lower levels of education also tend to access PPL earlier, reflecting barriers to employer-funded leave and stable employment (Baxter & Budinski 2023; Broadway et al. 2020).

As for recent reforms, it remains too early to determine their impact on parental work patterns. Nevertheless, the use of PPL remains gendered. Mothers continue to constitute the majority of participants of the scheme; by contrast, uptake among fathers remains limited at only 1% (Baird & Hill 2022; Baxter & Budinski 2023, p. 15). Research suggests that non-birth parents are unlikely to access leave that has not been specifically designed for them or where the level of wage replacement is low (Baird & Hill 2022; Baird et al. 2021; Selvarajah 2024). Overall, these patterns of use reveal emerging design challenges within policy, raising questions about whether recent changes adequately address longstanding structural and behavioural barriers to equitable access, including enduring organisational stigmas and traditional gender norms that continue to discourage an equal division of caring responsibilities (Baird & Hill 2022; Baird et al. 2021; Selvarajah 2024).

Methodology Employed

This report employed desk-based research and literature review method, focusing on grey material from reports and publications from 2014 onwards. Sources included a range of academic studies, government reports, legal frameworks, and advocacy publications. A human rights framework guided analysis, applying principles of equity and the right to family life to evaluate policies and identify systemic barriers.

Analysis

Experiences of Discrimination

Research findings and qualitative accounts indicate that discrimination persists across pregnancy, parental leave, and return to work, particularly for women working flexible hours or facing role changes. These experiences, which highlight the disconnect between formal protections and workplace culture, are outlined in Appendix D.

Illustrative Example 1: Return-to-work

Many women report unsupportive or hostile work environments during pregnancy and upon returning from leave. For instance, one woman shared with ABC News that she was pressured to shift from part-time to casual employment due to the amount of leave she was taking. Upon starting maternity leave, she was told her role no longer existed, as she had been absent for more than three months, the maximum allowed for a casual employee. Another woman recounted losing major projects because her employer assumed she would not be present in a year to complete them (ABC 2019).

Intersecting Experiences of Discrimination

Systemic Barriers and Workplace Inequality

The uptake of PPL in Australia varies significantly across demographic groups. Parents with limited English proficiency, those on the lowest incomes, parents with disabilities, and Aboriginal and Torres Strait Islander parents report the lowest levels of PPL uptake (AIFS 2024). This disparity between minorities and the remainder of the population highlights that the current scheme may not be reaching the most vulnerable populations. However, there is a lack of detailed research into how these barriers specifically affect marginalised groups. Without distinct data and deeper qualitative

insights, it remains difficult to fully understand the scale and nature of the inequities faced.

Childcare affordability and availability continue to be major barriers to workforce participation for mothers:

- Nearly half of mothers with children under five cited the cost or inaccessibility of childcare as a key factor affecting their ability to work (ABS 2023).
- For low-income families, the cost of childcare can outweigh the financial benefits of employment, pushing mothers into unpaid caregiving roles.

This dynamic has lasting consequences, such as reduced career progression, superannuation savings, and long-term financial security (ACOSS 2023). Extended time out of the workforce also contributes to the gender pay gap, as women often return to lower-paid, part-time, or less secure roles. Without affordable, accessible childcare options, gender-based disparities in economic participation are likely to persist.

Women from CARM backgrounds face additional barriers to accessing PPL:

- Many migrant women lack access to culturally appropriate and accessible information about pregnancy-related entitlements and services, including PPL (Bali et al. 2024).
- Language barriers, cultural taboos around reproductive health, and logistical and financial challenges further limit access to care.
- Systemic disadvantages, such as the non-recognition of overseas qualifications, unfamiliarity with Australian workplace norms, and limited access to training or career pathways are common barriers (Commission for Gender Equality in the Public Sector 2021).

These intersecting barriers result in lower workforce participation and, consequently, reduced eligibility for entitlements like PPL.

Women with disabilities represent another group that faces intersectional disadvantage in accessing pregnancy care and entitlements. Women with disability struggle to meet the requirement for consistent employment (Frohman 2009). This

impacts their ability to meet eligibility requirements such as continuous work, this is due to:

- Physical accessibility.
- Discriminatory attitudes.
- Inflexible work environments.

Similarly, *First Nations women* face structural barriers in both employment and healthcare settings. These include:

- High levels of unpaid and cultural labour.
- Exposure to gender-based violence.
- Lack of culturally safe workplace environments.
- Extensive caring responsibilities (Commission for Gender Equality in the Public Sector 2021).

The cultural, community, and family responsibilities held by First Nations women can limit their ability to maintain continuous employment and therefore limit access to PPL (FWO n.d.).

Gaps in Legislation

Within Australia, while the FW Acts and the SDA offer legislative protections, key gaps remain. Experiences of discrimination in the workplace are notoriously difficult to prove, due to the lack of explicit protection beyond general anti-discrimination clauses (Gibson 2023). In most cases, employers can cite alternative justifications for actions such as termination, demotion, or withdrawal of job offers, making it difficult to establish discriminatory intent.

Illustrative Example 2: Challenges in Proving Pregnancy Discrimination

In a case brought by Rosanne against her employers, she claimed that her position was terminated due to her pregnancy and parental leave following the company's acquisition. However, her employer argued that the termination was due to her no longer meeting the company's criteria. The situation was resolved on a financial basis without admission from either party (Anti-Discrimination NSW 2024).

Employers often operate within the grey areas of workplace law to avoid fulfilling their responsibilities to pregnant employees or parents on leave. Since many parental leave entitlements under the FW Act are conditional upon twelve months of continuous service with the same employer, casual workers often fall through the cracks. Employers may deliberately limit contracts to short-term or casual terms to avoid liability for paid leave, job-protected leave, or safe job guarantees driving women to either quit or take unpaid leave instead. This is detrimental as there is a strong correlation between PPL and a woman's connection to paid work; without this support, women risk losing their connection to work, taking long career breaks, hindering their ability to stay connected (AIFS 2024).

Despite existing legal protections, the true extent of pregnancy discrimination in Australia is likely underreported. Workers in insecure forms of employment or those recently returned from parental leave often lack the financial stability, legal literacy, or workplace support needed to pursue formal complaints. As a result, many incidents of discrimination are never officially recorded or addressed. Recent national research confirms this disparity; a 2024 study by Dr. Rachael Potter found that over 90% of surveyed parents experienced discrimination during some phase of pregnancy, leave, or return to work (Potter et al. 2024). However, very few pursued formal actions, largely due to fear of retaliation, job insecurity, or lack of resources. This highlights a critical enforcement gap while the law prohibits discrimination, its application is undermined by systemic barriers that prevent many from seeking justice, allowing discriminatory practices to persist unchecked (Gibson 2023).

Compounding these issues, government-paid parental leave is set at the minimum wage level flat rate, rather than a replacement wage, disproportionately disadvantaging low-income families and disincentivising uptake (ACOSS 2023). PPL creates barriers to equal gender uptake by requiring parents to share benefits, without considering social, financial, or biological factors like breastfeeding (Orfici 2024). The 'primary carer' rule limits shared parenting, allowing only two weeks of concurrent leave and offering the secondary carer just four weeks, insufficient for equal caregiving. In comparison to other countries in the OECD, Australia has one of the least generous Parental leave schemes, falling well below the average of other OECD countries (ABC 2019). All these culminate in a PPL that does not account for gender needs or the financial needs of those who apply.

Responsibility of Key Stakeholders

Addressing persistent challenges in pregnancy, parental leave, and return-to-work in Australia requires a multi-faceted approach from key stakeholders. Ensuring parents remain connected to work without discrimination is crucial for gender equality, economic productivity, social cohesion, and aligns with Australia's CEDAW commitments (PM&C 2024). Employers, government, unions, and advocacy groups share responsibility for creating supportive, equitable, and compliant environments, necessitating shifts in workplace culture and societal norms.

Employers: Fostering Inclusive and Compliant Workplaces

Employers, at the frontline of shaping experiences for pregnant employees and working parents, bear significant legal and ethical responsibilities beyond minimum compliance. These obligations span industrial relations, anti-discrimination, and workplace safety laws and non-compliance risks legal action.

Beyond Minimum Standards

Leading employers see benefits in exceeding statutory PPL minimums. Research suggests enhanced employer-funded PPL, flexible uptake for all parents, and superannuation during leave improve morale, productivity, retention, and talent attraction (WGEA 2024). Comprehensive parental leave policies, clear return-to-work support (including for breastfeeding), and accessible flexible work arrangements are

crucial. Supports must be accessible to all, including casual and insecure workers facing additional barriers (AHRC n.d.c).

Cultural Transformation

A supportive culture is paramount. Leadership must challenge gender stereotypes about caregiving and 'ideal workers' (Potter et al. 2024). Employers should address unconscious bias in performance management, promotion, and leave requests (Lee 2025). Negative attitudes undermine protections and cause discrimination, especially for marginalised groups facing intersecting discrimination (e.g., CARM women, First Nations women, Women with Disability) (Bali et al. 2024; Commission for Gender Equality in the Public Sector 2021). The SDA's positive duty requires proactive prevention of discrimination.

The Business Case

Supportive practices are ethical and improve organisational performance via enhanced reputation, gender diversity (linked to financial outcomes), and reduced turnover and absenteeism (AHRC n.d.b; Walsh 2019).

Australian Government: Setting the Framework and Driving Change

The Australian Government (at federal, state, and territory levels) plays a central role in establishing the legislative and policy framework, driving national change, and ensuring accountability, consistent with its human rights obligations.

Legislative and Policy Framework

Government enacts, reviews, and refines anti-discrimination and employment laws (e.g., SDA, FW Act) for protection against pregnancy and parental leave-related discrimination. It designs and funds the national PPL scheme, reviewing its adequacy, duration, rates, flexibility, and accessibility (including recent expansion and planned superannuation inclusion) to meet family needs and align with international best practices (Albanese & Rishworth 2024; Department of Social Services 2024).

Enhancement and Oversight

Government agencies (e.g., AHRC, FWO, state/territory bodies) enforce relevant laws. Their functions include:

- Investigating complaints and conciliating disputes.
- Conducting inquiries and research, e.g., AHRC's 2014 Pregnancy and Return to Work National Review Report (Broderick 2014).
- Monitoring compliance, including the AHRC's role regarding the positive duty under the SDA (AHRC n.d.d).
- Advising, reviewing laws, and making submissions to parliamentary inquiries (AHRC n.d.a).
- Promoting awareness of rights and obligations.

Addressing Norms and Gaps

Government promotes cultural change via awareness campaigns challenging gender stereotypes around caregiving. Policies incentivising shared care and ensuring gender impact analysis inform all policy design are important levers (Baird & Hill 2022; Selvarajah 2024; WGEA n.d.). Addressing data gaps for diverse groups (First Nations parents, parents from culturally and linguistically diverse backgrounds, LGBTIQ+ parents, parents with disability) is crucial for targeted policy. State and territory variations in laws and initiatives may offer models for broader adoption.

Unions and Advocacy Groups: Voice, Support, and Accountability

Unions and advocacy groups are crucial advocates and support providers, amplifying voices of working parents, especially those facing multiple forms of disadvantage. They lobby for stronger legal protections, improved workplace conditions (e.g., enhanced parental leave clauses in enterprise agreements), and policy reforms (Cook, Corr & Breitzkreuz 2016, p. 47-51; PM&C 2023). They represent members facing discrimination, offering advice, support, and assistance in dispute resolution or pursuing legal claims. Their inquiry submissions and policy consultations ensure worker perspectives inform government action. They also reform workplace norms by campaigning against gender stereotypes and hold government and employers accountable, ensuring legal rights translate into meaningful change.

Supporting new parents in the workforce is complex and requires collaborative action from all stakeholders to challenge gender norms. Without this, vulnerabilities during pregnancy and postpartum may inhibit individuals from reporting discrimination or seeking redress, ultimately limiting their ability to thrive.

International Experience

What Can Australia Learn from Scandinavia?

To shape Australia's response to pregnancy discrimination in the workplace, it is useful to draw lessons from international models. Scandinavian countries, particularly Sweden and Norway, offer valuable insights due to their strong parental leave systems and similar economic development. While their generous welfare models differ from Australia's, their approaches to leave design and gender equality provide a useful benchmark for reform.

Reserved Parental Leave Days

In Sweden, out of the four hundred and eighty days of parental leave, ninety are reserved for fathers and mothers respectively, and the remaining days are shareable between the two parents (Swedish Institute 2025). Similarly, Norway reserves fifteen weeks for the father and fifteen weeks for the mother, with the option of nineteen weeks each at 80% of income (NAV 2025), with the remaining weeks shareable between the two parents. In contrast, Australia currently does not reserve any portion of parental leave specifically for fathers or mothers (Services Australia n.d.b).

Following the introduction of equally reserved quotas for both parents, the Nordic countries have seen a substantial boost in fathers taking parental leave. In fact, fathers from Nordic countries have been observed to take more parental leave than anywhere else in the world (Nordic Information on Gender 2018).

The increase in fathers taking leave created a major shift towards perceiving parenting as a shared responsibility between the mother and father. Furthermore, the introduction of this initiative helped further gender equality in the workplace, as employers begun to expect both male and female employees to take parental leave.

As the Swedish Institute (2025) states, “walk around any Swedish city or town today and you’re likely to find fathers pushing prams.”

Implementing such a policy does not inherently come with major costs for the government but could strongly incentivise fathers to take leave. By normalising male participation in caregiving, Australia can gradually shift societal perspectives towards seeing parental leave as a gender-neutral entitlement and thereby significantly reduce the statistical discrimination towards pregnant employees in the workplace.

Minimum Wage vs Income-Based Parental Leave

Sweden guarantees 80% of the recipient’s income as parental leave payment for the first three hundred and ninety days of parental leave (Försäkringskassan 2025). Norway provides 100% of the recipient’s income as parental leave payment for 49 weeks, with parents having the option to receive 80% of their income for sixty-nine weeks (Kristian, 2023). In contrast, Australia's PPL scheme is paid at the national minimum wage (Services Australia n.d.b).

An income-based parental leave model reinforces the principle that employees on leave remain valued members of the workforce. When leave entitlements are tied to a percentage of one’s actual income, the financial penalty of taking leave is significantly reduced. For pregnant employees, this diminishes the perceived career penalties of stepping away from work, thereby reducing the pressure of pregnancy on job security or professional standing.

Just as importantly, an income-based system also incentivises fathers to take parental leave by lowering the opportunity cost of doing so. Under a minimum-wage-based scheme like Australia’s, many fathers, especially higher earners, are financially discouraged from taking time off. By contrast, when fathers receive a meaningful portion of their income during leave, they are more likely to participate. This not only lightens the caregiving burden on mothers but also helps normalise shared parenting.

This was analysed by the Australian Institute of Family Studies (AIFS) in its analysis of the Dad and Partner Pay (DAPP) scheme (Baxter & Budinski 2023). They found that differences in fathers DAPP take-up are likely related to whether fathers had alternative leave available from their employer and whether the rate of payment was

sufficient as an alternative to income from employment, relative to the family's financial needs. These findings underscore how inadequate income replacement under the DAPP scheme renders parental leave financially unviable for many fathers, discouraging their participation.

Australia is not a welfare state and therefore cannot adopt the full income-replacement model used in Scandinavian countries. However, it can improve on the current minimum-wage-based scheme. A more equitable approach would be to base parental leave payments on a proportion of the recipient's previous income, even if the rate is modest. This would reduce the financial pressure associated with taking leave, making it less likely that pregnant workers avoid taking time off. It would also lower the opportunity cost for taking leave, thereby encouraging fathers to utilise more if not all their parental leave entitlements.

Caveats

While international comparisons offer valuable insights, it is important to consider contextual limitations that may affect the applicability of these models to Australia's unique demographic, fiscal, and policy landscape:

- Nearly 30% of Australians were born overseas (ABS 2023), making Australia significantly more culturally diverse than Sweden and Norway. Greater cultural diversity could result in fragmented public support for parental leave reforms.
- Scandinavian nations are high-tax welfare states, with tax-to-GDP ratios of 41.4% in 2023, compared to Australia's 29.4% (OECD 2023). This fiscal capacity allows for more generous social programs that may not be feasible in Australia.
- There is limited research in Australia on why certain groups, such as low-income families and migrant communities, underutilise parental leave schemes. As noted by AIFS, addressing these knowledge gaps is critical to designing inclusive, effective reforms.

Key Recommendations

Based on the preceding analysis, this report proposes four key reforms aimed at addressing systemic discrimination in the workplace, improving access to paid parental leave, and supporting the diverse needs of Australian families.

1. Expand Eligibility and Move Toward Universal Access to PPL

- Extend policy reform beyond the removal of explicitly gendered language to actively shift norms around caregiving responsibilities and workplace expectations (Baird & Hill 2022; WGEA 2024b).
- Expand PPL eligibility through more inclusive criteria to address the exclusion of workers in non-standard or insecure employment arrangements who do not meet current minimum work hour or continuous employment thresholds.
 - This should include consideration of workers' migration status, particularly for visa holders and migrant workers who may face heightened labour market vulnerability (Baird & Hill 2022).
- Advancing toward universal availability of PPL can better capture marginalised groups, including CARM communities and LGBTQI+ families.

2. Establish Ongoing and Inclusive Data Collection and Evaluation Mechanisms

- A government-led system for ongoing, systematic data collection and evaluation to inform policy improvements (Baird & Hill 2022; Broadway et al. 2020).
 - The data collected should capture decisions made by parents about leave, their experiences navigating workplace policies, and employer practices. Illuminating:
 - Disparities in PPL access and uptake across different groups.
 - Barriers faced by marginalised groups with intersecting forms of discrimination.

- Provide evidence for equity focused reform
- This would assess the real-world impacts of PPL on different population groups, and ensure employers comply with existing legal obligations, potentially functioning as a form of regulatory oversight (Potter et al. 2024).

3. Drive Cultural Transformation through Proactive Education and Leadership Accountability

- Implement comprehensive education initiatives for employers, employees, and the community to dismantle discriminatory attitudes and normalise inclusive parental leave and flexible work.
 - To challenge gendered caregiving norms and 'ideal worker' biases that hinder career progression and opportunity (Lee & Craig 2024; Potter et al. 2024).
 - Educate employers' positive duty under the SDA to proactively prevent discrimination related to pregnancy, parental leave, and family responsibilities.
 - Promote the individual, familial, and organisational benefits of shared care and flexible work arrangements.
 - Equip leaders to address unconscious bias, foster supportive cultures, and ensure legal protections translate into lived experience without reprisal.

4. Enhance Equity Through Targeted Access Initiatives

- Implement reforms to ensure equity across all groups, by addressing both structural eligibility barriers and access to information.
 - Recognise that eligibility thresholds disproportionately affect CARM and lower socioeconomic status groups, who are overrepresented in insecure employment conditions and less likely to access employer-funded leave.

- Deliver culturally appropriate and accessible materials, with targeted outreach to low-income areas, migrant communities, and households with limited English proficiency or digital access.

Conclusion

Australia has made progress towards improving workplace equity for pregnant employees and working parents. Reforms made to the PPL scheme, the introduction of superannuation on parental leave, and the expansion of flexible working rights all demonstrate a growing recognition of the structural barriers faced by caregivers and parents. Despite this progress, persistent gaps remain, with discrimination continuing to manifest through subtle exclusion, loss of professional opportunities, and opaque employer practises. As this report highlights, existing legal protections often fail to account for intersectionality, leaving many without appropriate protections and leave entitlements.

To ensure full and genuine inclusion, future efforts are encouraged to extend beyond initial policy adjustments to support broader cultural change across all levels of society. Employers are well-placed to take proactive steps in challenging discriminatory norms and biases, while the government should lead with inclusive, data informed policies. Unions and advocacy groups remain an integral part of this process, holding institutions accountable and supporting those at risk.

A more equitable Australia is not out of reach. By building upon the foundation already established through past inquiries, recent legislative amendments, and advocacy, there is an opportunity to reshape workplace norms around pregnancy, parenthood, and caregiving. The path forward requires sustained commitment, targeted reforms, and collaborative leadership. This report serves as both an evidence base and a prompt for further consideration of how care, dignity, and fairness can be better integrated into the structures of work and family life.

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Appendix A

Mapping of National Strategies and Policies on Parental Leave (2014-Present)

| National Strategy/Inquiry/Taskforce | Year | Focus and Key Recommendations |
|--|------|--|
| Women's Economic Equality Taskforce – Next steps for paid parental leave in Australia | 2022 | <ul style="list-style-type: none"> - Report to inform government proposed PPL expansion between 2023-2026. - Provides three best practice models for PPL in Australia. - Key recommendations: <ul style="list-style-type: none"> - Reserve non-transferrable period for each parent. - Encourage the second parent to use more leave. - Consider additional leave for multiple births. - Enable parental choice in how leave is taken. - Ensure the total amount is available for single parents. |
| The Treasury's – Jobs and Skills Summit | 2022 | <ul style="list-style-type: none"> - Forum to work constructively on addressing challenges and opportunities in Australia's economy and labour market. - Key outcomes: <ul style="list-style-type: none"> - Recognised importance of creating safe, fair, and productive workplaces which includes parental leave. - Recommended amendments to FW Act for more secure access to flexible working arrangements and unpaid parental leave. |
| Women's Economic Equality Taskforce – 10-year plan | 2023 | <ul style="list-style-type: none"> - Report investigating women's economic inequality and identifies five pillars. - Key recommendations: <ul style="list-style-type: none"> - Model leading gender-equitable practice in APS by encouraging men's uptake of PPL. - Legislate superannuation on all forms of PPL. - Extend PPL to 52 weeks. - Boost payments to reach wage replacement. - Strengthen rights and protections for employees to access PPL and flexible working arrangements. |

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| The Treasury's – Working Future: The Australian Government's White Paper on Jobs and Opportunities | 2023 | <ul style="list-style-type: none"> - Identified the need to overcome barriers to employment and broaden opportunities. - Recognised pregnancy and care responsibilities barrier for women's participation in the workforce. - Referenced incoming changes to statutory PPL as designed to reduce gender inequality and encourage fathers' uptake in parental leave. |
| The Senate Education and Employment References Committee Inquiry – Potential impacts of the Commonwealth Paid Parental Leave Scheme on small business and their employees | 2023 | <ul style="list-style-type: none"> - Investigated the potential impacts of PPL changes on small businesses with specific attention to administration, experience of employers and employees and impact on relationship, and impact on female workforce. - Key recommendations: <ul style="list-style-type: none"> - For the government to identify and fund improvements to PPL scheme as it specifically pertains to small businesses and their obligations including minimising administrative burden. |
| Working for Women: A Strategy for Gender Equality | 2023 | <ul style="list-style-type: none"> - Framework for the Australian Government toward gender equality - Priority Area 2: Unpaid and paid care: <ul style="list-style-type: none"> - Evaluate expanded PPL scheme with focus on father's uptake and encouraging employer provided PPL. - Target the narrowing gender gap in use of PPL. - Priority Area 3: Economic equality and security: <ul style="list-style-type: none"> - To centre gender equality in workplace relations system, including provision of unpaid leave and protected attributes e.g. breastfeeding. |
| Paid Parental Leave Amendment (Improvements for Families and Gender Equality) Bill 2023 | 2023 | <ul style="list-style-type: none"> - Effective from 1 July 2023: <ul style="list-style-type: none"> - Expanded scheme from 18 weeks to 20 weeks. - Moved to gender neutral claiming, formally merging PPL and Dad and Partner Pay. - Removal of requirement for 12 weeks to be taken in a continuous block so leave can be taken flexibly within 24 months. - Introduced reserved 'use-it-or-lose-it' period of 2 weeks for each parent. - Eligible claimants able to take up 2 weeks of leave concurrently in relation to same child. - Family income limit expanded to \$350,000. |

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| Paid Parental Leave Amendment (More Support for Working Families) Bill 2024 | 2024 | <ul style="list-style-type: none"> - Second tranche of changes: <ul style="list-style-type: none"> - Staged increase in entitlement, increasing by 2 weeks until reaching 26 weeks from 1 July 2026. - Incremental increase in reserved ‘use-it-or-lose-it’ period to a maximum of 4 weeks from 1 July 2026. - From 1 July 2025 concurrency limit increased to 4 weeks. - Exception for work test in the case of premature birth or pregnancy-related complications or illness extended to non-birth parents. |
| Workplace Equality Agency | Gender 2024b | <ul style="list-style-type: none"> - Statutory agency tasked with improving gender equality in Australian workplaces - Functions include collecting and publishing information on indicators, assisting employees take action, monitoring compliance, deliver programs, and undertaking research. - Provides annual updates on the state of gender equality in the workplace around 6 gender equality indicators. - Gender Equality Indicator 6 includes sexual harassment. - Gender Equality Indicator 4 investigates employment conditions including flexible arrangements for family or caring responsibilities. <ul style="list-style-type: none"> - Key data in 2024: 68% of employers offered paid parental leave. |
| The Senate Community Affairs Legislation Committee Inquiry – Paid Parental Leave Amendment | 2024 | <ul style="list-style-type: none"> - Committee recommends Senate pass the bill - Some participants pointed out despite reforms Australia’s PPL still among least generous internationally. - Issue of Australian residency requirements that make many migrant workers and parents on visas ineligible. - Some inquiry participants supported provisions in the bill to include reviewing of the scheme. |

Appendix B

AHRC's 2014 Recommendations

| | Specific Action | Status | Notes |
|---|--|-----------------------|--|
| Recommendation 1: For government | Collaboration of agencies and business community to develop and disseminate clear guidance on employer obligations, employee rights, and best practices. | Partially implemented | WGEA (n.d.a) and FWO (n.d.a) websites provides resources for employer obligations and best practice guidelines. |
| | Automate delivery of guidance material to employees and employers through PPL scheme and other mechanisms. | Not implemented | Information and resources are available on various government websites, such as Services Australia (n.d.a) and the FWO (n.d.a), but access is on a user-initiated basis. |
| | Allocate funding to a national education campaign on employer obligations and employee rights. | Not implemented | Services Australia (n.d.a) provides webinars and offers educational videos online but no evidence of standalone national campaign. |
| Recommendation 1: For employers | Ensure effective delivery and communication of guidance material throughout organisation. | Not formally tracked | No national mechanism to assess employer compliance; likely varies by organisation size and sector. |
| Recommendation 2: For employers | Organisational cultural change and removal of harmful stereotypes. | Not formally tracked | No national mechanism to monitor organisational cultural change. |
| Recommendation 3: For government | Extend SDA protection to cover indirect discrimination based on family responsibilities. | Not implemented | Attributes such as pregnancy and breastfeeding are covered for indirect discrimination under s 7B; family responsibilities are protected against direct discrimination. |

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| SDA – Include positive duty on employers to reasonably accommodate pregnancy workers/or have family responsibilities. | Not implemented | Positive duty (s 47C) came into effect in 2022 via <i>Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022</i> (Cth) regarding sex-based discrimination, but it does not specifically reference accommodation for pregnancy or family responsibilities. |
| Remove 12-month continuous service requirement under FW Act 'right to request'. | Not implemented | Eligibility remains to date for full-time, part-time, and casual workers (s 65). |
| Introduce procedural appeals mechanism for flexible work refusals. | Implemented | From 6 June 2023 as part of <i>Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022</i> (Cth), the Fair Work Commission can hear and make orders about disputes about flexible work and the power to start court proceedings for alleged breaches (s 65B and s 65C). Employers also have added obligations prior to refusal including discussing it with the employee, making a genuine effort to find alternative arrangements, consider the consequences for refusal, and providing a written response. |
| Clarify NES for leave and breaks for purpose of pre-natal appointments and breastfeeding. | Not implemented | Parental Leave under NES allows flexible leave to be taken by a pregnant employee 6 weeks before the expected birth of a child or earlier as agreed by the employer, or unpaid special parental leave if they are unfit for work which may include attending pre-natal appointments. Pregnant employees can also request flexible working arrangements in certain circumstances, though none of this is specific for the purpose of pre-natal appointments and it is not formally mandated in NES. |

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| | | | Similarly, breastfeeding breaks are not mandated under NES, however, it is unlawful to discriminate against an employee on the basis of breastfeeding based on FW Act and SDA. |
| | Develop guidance material for employers regarding legal obligation to the work, health and safety needs or requirements of pregnancy, employees undergoing IVF, and returning employees after miscarriage or stillbirth; with view to introduce 'code of practice' under Work Health and Safety Laws. | Not implemented | No standalone Code of Practice for those populations. Existing model Codes of Practice (e.g. on hazardous chemicals and hazardous manual tasks) references pregnant workers (Safe Work Australia n.d.). |
| Recommendation 4 | Funding to conduct national prevalence survey on discrimination every four years. | Not implemented | No dedicated four-year cycle of national research yet established (Potter et al. 2024). |

Note: This table draws from analysis of publicly available legislation (e.g. FW Act and SDA), official websites including FWO, Safe Work Australia, and Services Australia, and recent literature. For detailed references, please see full reference list.

Appendix C

Comparison of Pregnancy and Parental Leave Legislation

| | PPL Act | FW Act | SDA | Work Health and Safety Acts | State/Territory Anti-Discrimination Laws |
|-------------------------------|----------------------------------|--|--|--|--|
| Focus | Government-funded entitlements. | Minimum workplace standards, unpaid leave, and protection from dismissal. | Anti-discrimination in employment and services. | Ensuring safe workplace practices for employees and contractors. | Anti-discrimination protections, varies by state. |
| Eligibility | Employees must meet a work test. | All employees including casual workers who have worked twelve continuous months on a regular basis. | All employees. | All workers. | Varies by jurisdiction. |
| Right to flexible work | N/A | Right to request flexible work if employee has worked twelve continuous months; employer must justify refusal using reasonable business grounds. | Indirectly supported through anti-discrimination provisions. | Not addressed. | Varies with some states providing stronger flexible work rights. |

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| | | Casual employees are entitled to make flexible work arrangement request if they have been a long-term employee. | | | |
| Protection against discrimination | N/A | Protection against adverse action for taking leave or being pregnant. | Direct and indirect discrimination prohibited based on pregnancy, potential pregnancy, breastfeeding, and family responsibilities. | Duty to maintain a safe work environment for pregnant women. If there is no safe job available, employees are entitled to take leave at usual rate of pay. Failure to provide an adequate room for breastfeeding constitutes as discrimination and a breach of work health and safety laws. | In NSW, it is unlawful for workplaces to discriminate on the basis of pregnancy. This means employers cannot reduce an employee's hours, terminate employment, overlook a candidate for promotion, or ask about pregnancy or family planning during a job interview. |
| Right to return to work | N/A | Return to work guarantee: Right to return to pre-leave position or if the position no longer exists, one that is similar in pay and status. | Indirectly through discrimination prohibitions. Employers cannot discriminate against pregnant women or those on parental | Not addressed. | Indirectly through discrimination prohibitions. |

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| | | | leave, including refusing to let them return to their job, changing their role to one with less responsibilities, or making them redundant. | | |
| Gender neutrality | Gender neutral language reforms; removal of primary carer concept by 2026. | Both parents eligible, with concurrent leave permitted. | Protects all genders equally, including based on pregnancy. | N/A | Generally, gender neutral. |
| Special provisions | Flexible block taking and use-it-or-lose-it leave for each parent. | Safe job provisions during pregnancy, flexible work arrangements, and leave can be taken either as a continuous period, flexibly or a combination of both. | Covers contractors and indirect discrimination. | Duty to alter work environment for pregnant employees if indicated. Requires businesses to ensure, so far as is reasonably practicable, the provision of adequate facilities for workers' welfare while at work, including a room for breastfeeding. | Many include provisions for carers and breastfeeding. |

Appendix D

Qualitative Evidence and Experiences of Workplace Discrimination

During Parental Leave

Many mothers stated that their time on parental leave was marked by exclusion and a sense of being forgotten. A survey conducted by the University of South Australia found that 50% of respondents were not informed about workplace restructuring—organisational changes often used as a neutral justification for adverse action during an employee’s leave— or how it would affect their roles, while 21% were pressured to return to work earlier than planned (Potter et al. 2024). Discriminatory treatment during pregnancy is often rooted in persistent gender norms and stereotypes. Pregnant women are frequently perceived as irrational, overly emotional, or less committed to their work than their non-pregnant colleagues, at odds with the preferred ideal worker, a full-time, available and dedicated employee (Kachi et al. 2022). The perpetuation of the ideal worker stereotype as the most desired employee is at odds with the care taking responsibility of most women, putting them at a disadvantage when it comes to promotions. These stereotypes not only fuel discrimination but also negatively impact maternal wellbeing, increasing the risk of postnatal depression.

Returning to Work

Returning to work proved to be the period in which mothers experienced heightened amounts of discrimination. This manifested in comments and negativity surrounding their need for flexible work hours and moving to part-time work (Potter et al. 2024). Moreover, breastfeeding was cited by many women as a barrier in returning to work. These accounts highlight the widespread nature of discrimination against pregnant workers.

Workplace safety is another area of concern. Legally, employers must provide a safe working environment for pregnant employees, which includes offering alternative duties if needed. While legal protections exist, many pregnant employees continue to

face unsafe conditions, inadequate accommodations, and employer resistance when seeking necessary adjustments.

- Women who requested adjustments to their work conditions were often met with unwarranted disciplinary actions (Orifici 2022).
- Excessive workload, rigid organisational structures, and inflexible scheduling often prevented pregnant workers from taking necessary breaks to protect their health and well-being (Madden et al. 2022).

These conditions not only place physical strain on expectant workers but also contribute to psychological stress and reinforce the perception that pregnancy is incompatible with workplace productivity. This highlights the role of employers as key stakeholders with both legal and ethical responsibilities to support equitable workplace conditions.