



“Modernising Parental Leave”

**Submission to the Ministry of
Business, Innovation and
Employment**

25 August 2014



For a better working life

New Zealand Public Service Association

Te Pūkenga Here Tikanga Mahi

Modernising Parental Leave: Submission to Employment Standards, Ministry of Business, Innovation and Employment

Introduction

Who we are

The New Zealand Public Service Association *Te Pūkenga Here Tikanga Mahi* (the PSA) is the largest trade union in New Zealand with over 58,000 members. We are a democratic organisation representing members in the public service, and the wider state sector (the district health boards, crown research institutes and other crown entities), state owned enterprises, local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors.

The PSA represents over 40,000 women and an overwhelming majority of PSA members, both men and women, are parents or grandparents. At any one time, approximately 530 PSA members are on parental leave. 2% of these members are men. The average age of PSA members on parental leave is 33 years.

PSA members have shown a strong interest in recent proposals relating to parental leave and last year the PSA Youth Network (for PSA members under 35) identified parental leave as their issue of most interest.

PSA submission

General Comments

The PSA would like to acknowledge and commend MBIE on the high quality of the discussion paper “Modernising Parental Leave”. The paper is comprehensive, well-written, sets out the issues clearly and succinctly and is easy to read. The high quality of the paper makes it easier to engage with the matters raised within it.

The PSA generally supports proposed changes to the Parental Leave and Employment Protection Act 1987 (the Act) to bring it up to date with contemporary models of parenting and working. The PSA considers that access to paid parental leave, extended leave and employment protection are part of a raft of necessary measures to reduce inequalities (income and opportunities) for women in the labour force.

We support proposed changes to the current rules that will enable better access to paid and unpaid leave by women in non-standard work and to primary carers. We support the extension of the scheme to these groups, rather than the re-targeting of the scheme away from those in standard employment who are the current primary users of the scheme. We also support the relaxation of some of the rules around extended leave.

The PSA considers that paid parental leave should continue for at least 6 months with a view to increasing to one year over time. This longer duration of paid leave would support WHO objectives in respect of breastfeeding and mother/infant well-being. A longer duration would bring us more into line with other OECD countries.

We also consider that the rate paid for parental leave must increase: it is currently so low that taking it places a real burden on families at a time when they are already likely to be struggling financially.

Some of our members tell us that they have had difficulty working out their parental leave entitlements under current provisions. There will need to be good and clear information for all parties around each of the proposals to ensure implementation is successful.

The PSA's Women's Network agenda for change, "Work Rights for Living", is appended and points relevant to parental leave form part of this submission.

We support the New Zealand Council of Trade Unions submission on this matter

*Specific comments
on the proposals*

Proposal One

"Extend eligibility to "less-regular or non-standard employees and employees whom have recently had a change of jobs or had gaps in employment"

We support this proposal

We support this proposal. To give full effect to the policy intention of improving access to the provisions of the Act, we recommend remaining barriers to accessing the full paid parental leave payment are removed. This would mean repealing the rule that payments cease (for a variety of reasons including resignation or the ending of a fixed-term agreement) if these events fall within the period of maternity leave. We consider this to be unfair as eligible women have already met the work criteria. We also understand that women who may work year by year on a fixed-term basis (for example, librarians who may be employed on a fixed-term for nine months of each year) lose their entitlement to extended leave. We recommend that this anomaly is addressed.

We submit that remaining barriers to access to the full paid parental leave amount are removed.

Proposal Two

"Extending eligibility to other permanent care arrangements e.g. parents with whāngai care adoptions"

We support this proposal. We submit that after the word "whāngai" you add "and other culturally similar arrangements" (as distinguished from "other informal arrangements" in the following bullet point).

We submit that the two weeks' unpaid partners/spouse leave be extended to four weeks and that this leave is paid and available at the time of the birth / adoption of a new child.

Proposal Three

"Enabling employees on parental leave to have limited days working"

We support this proposal, at the employee's request. We recommend extending the proposal to include a limited number of "keeping in touch" days at the employee's request during the period of extended unpaid leave (limited to, for example, no more than one day per month to ensure employees on extended leave are not regarded as relief or temporary workers). In our view, employees will be more ready to Keep in Touch during the period of extended leave. An employee must not be employed on less substantive conditions on Keeping in Touch days, including remuneration. The drafting must make it clear that pressure cannot be applied to the employee to return to work during parental leave.

Proposal Four

"Enabling employees to take extended unpaid leave (12 months) part time and flexibility"

We are supportive of this proposal, at the employee's request. In our experience, employers are not generally good at managing part time or other flexible work arrangements. Negotiating flexible working arrangements can be particularly difficult for parents returning to work after a period of extended parental leave.

We submit that the request should be "not unreasonably withheld" rather than "by mutual agreement" to help women negotiate around reduced hours and flexible working arrangements. We also submit that this right to request part time and/or flexible working arrangements (including access to breastfeeding facilities, where practicable) be provided for in the Parental Leave and Employment Protection Act, not just left to the ("lesser") provisions in Part 6AA of the Employment Relations Act.

We also submit that the period of extended parental leave be extended beyond 52 weeks by the number of days/ works/months worked within the 52 week period.

Employees should give sufficient notice of their intentions regarding their return to work arrangements.

Proposal Five

"Providing extended leave to employees who have been with their employer for more than six months but less than 12".

We support the proposal for the pro-rata extension of extended parental leave to employees who have worked less than 12 months. We recommend an enabling approach is taken, for example, rather than simply saying "if less than six months no eligibility" it would say that there is no automatic eligibility but may be negotiated with an individual employer. This would allow a more enabling approach where an

employer wanted to retain the employee. If it says "no eligibility" this can mean employers feel they cannot agree even where they wish to exercise their discretion.

Additional matters

Please also refer to Appendix One attached.

In addition to our comments on the five proposals contained in the discussion paper we make three additional points.

We recommend amending section 42 of the Act, relating to the calculation of annual holiday pay in the year following a return from parental leave. We consider that this is harsh for parents re-entering the workforce when their annual leave is worth nothing or very little. In our view this effect on annual holiday pay is inconsistent with the objects of the Act.

We are aware that many women experience pregnancy-related discrimination in the workplace as employees or prospective employees. We support the reintroduction of employer penalties for breaches of the Act. The reintroduction of penalties is likely to assist women and carers in accessing their proposed new entitlements.

We support a review of the ten hours work criterion. If occupational groups of women who would benefit from the provisions of the Act are missing out we would support a reduction in the threshold or more discretion around access so as to enable full effect to be given to the policy intention of the proposed changes.

PSA contact

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Appendix One: Work Rights for Living

The PSA Women's Network has developed an agenda called Work Rights for Living. Points relevant to the issues raised in the discussion paper are underlined.

1. Supporting families

New Zealand has a way to go before it can match the parental leave and other support for families in other OECD countries. Here's some information about current entitlements. The Families Commission has made comprehensive recommendations for changes. We'd like to endorse them. We can progress some through bargaining for collective agreements and others through working alongside other interested groups to made change politically.

What is needed?

Parental leave – job protected leave

- Increase the amount of job-protected leave that families have access to.
- Include in this maternity leave, separate leave for partners and some “family” leave that can be used by either partner.
- Consideration should be given to being able to transfer some of the family leave entitlement to another eligible family member who is engaged in a parenting role.
- Change the eligibility criteria so that-part timers and those who have had casual or multiple short-term but continuous jobs are not disadvantaged.
- Allow family leave to be able to be taken before the child is 3 years old, in blocks of time or in combination with part-time work.
- Make maternity leave a fixed entitlement for immediately before and after the birth.
- Partner leave to be able to be taken flexibly – e.g. at the same time as maternity leave, after maternity leave is completed, in blocks of time or part-time in combination with part-time paid work at any time in the child's first year of life.

Parental leave - paid

- Give partners an entitlement to paid parental leave that is separate from maternal paid parental leave.
- Extend the current 14 week's paid parental leave to 6 months (or 7 months if partner leave is taken consecutively).
- Additional entitlements for multiple and premature births
- Change the income assessment criteria used for the parental leave payment to ensure those with an irregular work history are not disadvantaged.
- Increase the maximum payment cap for paid parental leave.
- Employer to top up the government payment to full salary or fund extra paid parental leave.

Supporting return to work

- Agreed and monitored systems to ensure that those on parental leave get all the information they need about work, including change management, promotion and training opportunities.
- A shorter period of notice of early return from parental leave.

- A phased return to work for those intending to eventually return to work full time, this could include, e.g. a right to shorter hours for the first 2 years of the child's life.
- Good infant feeding facilities and paid infant feeding breaks.

Other leave to support families

- Special arrangements for women who give birth prematurely – e.g. an extra week of maternity leave for each week that a baby is premature.
- Ensure leave taken because of stillbirth and miscarriage before 24 weeks is not included as sick leave or in sickness absence monitoring.
- Paid time off for both partners to attend ante-natal and post-natal appointments (e.g. midwife visits or Plunkett appointments).
- Reasonable paid time off for fertility treatment
- Paid leave for foster parent training
- Job protected planned carer's leave for those needing to provide, e.g. nursing care following a serious illness or discharge from hospital, respite care, to assist a dependent into or out of residential care, to assist with transport of a dependent to and from hospital or doctor's appointments etc.

2. Flexible working

All workers may/ will soon have the right to request flexible working arrangements – of course this doesn't mean your employer has to agree. The recent PSA survey of women members found that responsibility for sorting out and managing flexible working arrangements is passed down so that it's up to the individual to sort it out with their team. The survey also found that barriers to flexible working include workload and concern about impact on other team members.

What's needed?

- Clear information and processes for making requests for flexible working arrangements
- A commitment from the employer to managing and resourcing this so that it's not left up to individuals to sort out.
- Menus of options for flexible working in collective agreements

3. Part time working

The public sector has a low rate of part-time working and workers often pay a penalty for working part-time in terms of their rate of pay and the kind of work made available to them.

What is needed?

- Commitment from employers to equality of pay and employment opportunities for part time workers.
- Rights to part-time working for those returning from parental leave and transitioning out of the workforce.

4. Family violence

American research suggests that 10% of the workforce have experienced violence from their partner in the past 12 months. The impact on work performance puts job security at risk, with up to half the women in one study reporting losing a job, at least in part due to family violence.

What is needed?

- Recognition from employers that family violence sometimes affects employees and a commitment to support employees in this situation.
- Access for employees experiencing family violence to paid special leave for medical appointments, legal proceedings and other activities related to family violence.