

# Gender equality and paid parental leave in Australia: A decade of giant leaps or baby steps?

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## Abstract

The year 2020 marks the 10th anniversary of the Australian Paid Parental Leave Act 2010. Using Baird's orientations typology and Brighthouse and Wright's equality framework, with evidence from the Workplace Agreements Database and the Workplace Gender Equality Agency, this article assesses changes in policy, bargaining and company provisions over the decade. We find that policy changes may enable more fathers and partners to take leave, although the period is short and barriers to uptake exist. In bargaining and company policy, we find modest growth in the proportion of agreements with paid primary and paid secondary carer leave provisions, but no movement in the duration of the leaves, with secondary carer leave much shorter. We conclude that although these changes suggest growing attention to improving women's working conditions and fathers' access to parental leave, short secondary carer leaves set normative standards of fathers as 'supporters' rather than recognising substantive involvement in care. Consequently, the changes do not promote gender-egalitarian sharing of parental leave. While the introduction of the government scheme was a 'giant leap', the 10 years since have seen modest 'baby steps' towards greater gender equality in the availability and potential use of paid parental leave.

## Keywords

Company policy, Dad and Partner Pay, gender equality, paid parental leave, Paid Parental Leave Act 2010, workplace agreements

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## Introduction

The year 2020 marks the 10th anniversary of the Paid Parental Leave Act 2010, an act that significantly altered the Australian policy landscape. This anniversary offers an important point in time to trace the changes in paid parental leave policy in Australia alongside shifts in two other domains of paid parental leave, namely workplace agreement outcomes and employer policies. This article examines the impact of changes in these three domains over the last 10 years, and assesses where we are now when it comes to gender equality in Australia. In understanding gender equality, we refer both to increasing women's attachment to the labour market and increasing men's participation in childcare. We apply and link two conceptual approaches to assess the degree to which these changes may have contributed to greater gender equality: Baird's orientations to maternity leave (Baird, 2004) and Brighouse and Wright's (2008) equality framework.

The article begins with an overview of the literature on the relationship between parental leave policies and gender equality. This is followed by an outline of the hybrid parental leave framework in Australia, which includes three domains of parental leave provision: the government scheme, enterprise or workplace bargaining and company policies. These have hitherto been rarely examined together yet they comprise the total context through which paid parental leave is provided in Australia.<sup>1</sup> In order to do this, we analyse data from a range of sources over a 10-year period. The article concludes with a discussion of what these changes in the provision of paid parental leave have meant for *where we are today* when it comes to gender equality in Australia, before drawing conclusions about *what is required next* to improve equality further.

## Parental leave policies and equality

There are widely acknowledged tensions in the capacity of parental leave policies to achieve gender equality at work and in the home. On the one hand parental leave policies have the potential to improve workplace gender equality, and on the other they may reinforce gender roles and inequalities. Parental leave policies have the potential to improve workplace gender equality by supporting women to remain attached to paid employment while their children are very young (Ray et al., 2010: 198) and mitigating the impacts of having children on earnings and retirement incomes, provided they are designed in the right way. Paid parental leave of a duration of at least 26 weeks improves the stability of labour market attachment, reduces the risk of dropping out of the labour market, and mitigates reductions in incomes arising from childbearing and rearing (Australian Human Rights Commission (AHRC), 2013; Ray et al., 2010). Providing leave at wage replacement levels is more effective in mitigating the effects of childbearing and rearing on incomes, and options for taking leave flexibly can also improve opportunities for labour market attachment during the early months and years of a child's life. However, unless also coupled with policies to encourage men to use

this leave, the previous measures will be limited to mitigating the impact on women's work, rather than attempting to redistribute work and care across genders (Bergqvist and Saxonberg, 2016; Karu and Tremblay, 2018).

Parental leave policies also have the potential to reinforce unequal divisions of labour between men and women. Where schemes are predominantly used by women, parental leave provisions risk 'consolidating [women's] primary responsibility for caring roles and extending their vulnerability to career penalties associated with workplace absence' (Farrelly and Whitehouse, 2013: 246). Consequently, for parental leave policies to be successful in improving gender equality, they need to be provided in a context that also enables or encourages take-up by men (Baird and O'Brien, 2015: 200; Ray et al., 2010: 199).

Baird (2004) identified three orientations to parental leave policy-making in Australia in the early 21st century: 'welfare', 'bargaining' and 'business', and argued that none of these provided full equality for working women. The welfare approach, preferred by government, focused on fertility and population growth but payment at minimum levels. The bargaining approach taken by unions focused on providing working women with an entitlement that guaranteed wage replacement. The business approach taken by organisations focused on the attraction and retention of skilled women to business, usually through providing wage replacement provisions (Baird, 2004). These policy orientations have the potential to shape gender equality outcomes in different ways. The bargaining approach and business approaches, paid at wage replacement, provide more adequate approaches to supporting women to maintain attachment to the labour market and mitigating the effects of childbearing on incomes. However, they are selective in application, covering only a proportion of workers either under workplace agreements or company policies, and unless available to both mothers and fathers, may reinforce women's use of leave and thereby their care role. In contrast, the welfare approach offers more universal coverage, but focuses on women's role as childbearers and pays at a low rate, with poorer outcomes for women's labour market attachment and lifetime incomes. The net result of these orientations operating concurrently is the fragmented and inequitable provision of paid maternity or parental leave to Australia's growing female workforce, and an emphasis on women rather than men.

Although the focus of Baird's typology is the way in which different policy orientations shape gender equality in labour market outcomes, Brighthouse and Wright (2008) offer a framework for understanding the extent to which parental leave policies shape gender equality in the distribution of both work and care. They identify three categories: 'equality impeding' provisions that are either limited to mothers or are unpaid so likely to be used exclusively by mothers; 'equality enabling' provisions that provide leave for families rather than mothers but without being accompanied by measures to encourage parents to share the entitlement; and 'equality promoting' provisions that encourage families to share parental leave in a gender egalitarian way (Brighthouse and Wright, 2008: 361). In their framework, a parental leave policy that focuses only on mitigating the impacts of childbearing

and rearing on women's labour market participation without attempting to redistribute care between women and men is inadequate for pursuing gender equality objectives, and can even impede them.

Overall, the existing literature on the role of parental leave in promoting gender equality is focused on public policy provisions (Farrelly and Whitehouse, 2013: 246), with a smaller literature on union-negotiated provisions (Baird et al., 2009; Williamson and Baird, 2014), and little on business. However, while treated separately in the literature, these different domains of parental leave overlap and intersect to create the broader normative and structural context in which parental leave policies are designed, offered and taken up by mothers and fathers in Australia. For example, the existence and nature of a national parental leave scheme has the potential to influence union bargaining priorities and outcomes (Baird and Murray, 2014; Baird et al., 2009; Berg et al., 2013). The existence of a national scheme can also shape the way employers support the needs of working parents by contributing to the 'normative climate' within organisations (Haas, 2008: 91; Whitehouse et al., 2013): some employers may extend their existing schemes in response to the amplification of the importance of supporting working parents; others may withdraw their schemes if the normative climate is one in which parental leave is recast as a government responsibility, or in which employers with paid parental leave lose their competitive advantage (Whitehouse et al., 2013). Consequently, to understand the effects of parental leave policies on gender equality in Australia, the three domains and the relationship between them must be considered together.

Until 2010, Australia was still one of only two countries in the Organisation for Economic Cooperation and Development (OECD) (alongside the United States) without a national paid parental leave scheme. In the absence of a national scheme, employer schemes arising from collectively-negotiated entitlements or company policies were the avenues for accessing paid parental leave (Baird et al., 2009: 672). These employer schemes were also limited in the extent to which they promoted gender-egalitarian sharing of leave: paid maternity leave schemes were much more prevalent and more generous than either parental or paternity leave schemes (Baird et al., 2009: 672; Whitehouse et al., 2013: 312). Prior to 2010, therefore, Australia was performing poorly on gender equality in both its public policy and employer approaches to parental leave, prompting Ray et al. (2010: 207) to rank Australia second from the bottom on the Gender Equality Index they developed to compare gender equality in parental leave policy designs in 21 countries.

In 2010, Australia introduced its first national paid scheme and now has a hybrid system of paid parental leave combining the government scheme, bargained outcomes at the workplace or enterprise level, and company policies. Looking across these three domains of parental leave policy, this article will assess the degree to which the orientation to parental leave policy might have shifted, as per Baird's typology, since 2010, and if there is evidence of more gender equality enabling or promoting provisions and outcomes, as Brighthouse and Wright

propose. While these indicators are not definitive measures of gender equality, taken together, we argue, they give a sense of whether there has been any improvement in gender equality relating to the making and taking of parental leave in Australia.

## **Parental leave and the Australian system**

Parental leave in Australia sits at the intersection of the industrial relations and welfare systems (Baird, 2005), making it both empirically and conceptually complex to understand and assess. The rights to unpaid leave and job protection are governed by the Fair Work Act 2009, and are included in 10 National Employment Standards (NES), whereas the Parental Leave Pay (PLP) scheme is governed by the Paid Parental Leave Act 2010, and sits in the welfare portfolio alongside income support payments. In addition, paid parental leave (including paid maternity or primary carer leave and paid paternity or secondary carer leave) may be made available through workplace agreements or company policies.

Under the NES, employees are entitled to 12 months of unpaid parental leave per parent that can be taken within 24 months after the birth or adoption of the child, provided they have worked for their employer for at least 12 months before the date of birth (or adoption) or the date the leave commences, and provided they have responsibility for the care of the child. To be eligible, casual employees need to have been working for their employer on a 'regular and systematic basis' for this 12-month period and there needs to be a reasonable expectation that their work would continue were it not for the birth of a child. Employees may request an additional 12 months of unpaid leave but employers can refuse this request on 'reasonable business grounds' (Campbell and Charlesworth, 2020). There is a return to work guarantee, whereby the employee upon ceasing unpaid parental leave can return to work either to the position they occupied prior to their parental leave period, or if that position no longer exists, a position which is close in status and pay to their previous position (Fair Work website). Employers are not permitted to offer less than these minimum leave entitlements, but employees may be entitled to more leave through their awards, enterprise agreements or other workplace policies.

Australia's national paid parental leave scheme, enshrined in the Paid Parental Leave Act passed in 2010, became operational from 1 January 2011. The scheme sits outside of the NES and therefore operates alongside but independently from the unpaid leave provisions. Under the scheme, employees are entitled to 18 weeks of government-funded PLP, paid at the National Minimum Wage. The payment is made to the 'primary carer' of an infant, provided they meet a work test, an income test, a residency test and they are on leave. To pass the work test, the primary carer needs to have worked for at least 10 of the 13 months before the birth or adoption of the child and 330 hours in that 10-month period (equivalent to just over 1 day a week), with no more than 8 weeks between 'work days'. There are some exceptions to this test in the case of pregnancy complications or premature

birth. The payment is income-tested on the income of the primary carer. To meet the income test, the primary carer needs to have an adjusted taxable income of less than \$150,000 per year (approximately double the average annual individual earnings in Australia). To receive the payment, the primary carer must be living in Australia and have Australian citizenship or meet certain residency requirements. The employee must be on leave for the duration of the payment, with the exception of up to 10 'keeping in touch' days.

In addition to the parental leave provisions and pay, employers may provide additional leave provisions either negotiated and codified in enterprise agreements or determined unilaterally through company policy. Indeed, the Productivity Commission's recommendation, on which the national scheme was based, encouraged employers to supplement the 18 weeks with their own policies, with an objective of achieving 26 weeks paid leave for parents (Productivity Commission, 2009). As a result, Australia has a hybrid system of a NES, a government-funded scheme, plus employer-provided paid parental leave achieved either through bargaining or company policy. The national government-funded parental leave scheme is accessible to most working mothers, and employer-funded paid parental leave schemes are accessible to about 50% of working parents.

The article seeks to explore what has changed in the Australian parental leave landscape since the introduction of the government scheme in 2010, and where we are now when it comes to parental leave policymaking. It asks whether changes to the government scheme since 2010 signal a shift in orientation, and whether they are likely to impede or promote gender equality. It also asks whether workplace agreements and company policy over the same period show evidence of a change in orientation towards promoting gender equality by providing more opportunities for fathers to take parental leave.

## **Method**

To answer these questions, this article draws on data for each domain: public policy, collective bargaining and company policies. First, we analyse the changes to the PLP scheme since its introduction in 2010, including the introduction of Dad and Partner Pay (DaPP) in 2013 and more recent changes and their capacity to produce more gender-egalitarian outcomes when it comes to participation in employment and childcare by mothers and fathers or partners.

Second, in relation to bargaining, we examine the degree to which unions and non-union employee bodies have negotiated paid parental leave arrangements since 2010, through analysis of the Australian Workplace Agreements Database (WAD) housed in the Attorney Generals Department. The WAD provides data on all union and non-union agreements registered federally each quarter and codes for 'paid primary carer leave' and 'paid secondary carer leave' clauses. The coding does not provide for the exact wording in clauses so we only know whether the leave is available to primary or secondary carers. Given current conventions – that paid primary carer leave is most commonly used by mothers and paid secondary

carer leave is most commonly used by fathers or partners – we assume for the purposes of this article that an increase in the incidence and duration of paid primary carer leave suggests greater support for working mothers (i.e. with the potential to improve mothers' labour market outcomes) and an increase in the incidence and duration of secondary carer leave suggests greater support and investment in leave for fathers (which is more important in improving broader gender equality in the distribution of work *and* care). Notably, an increase in paid primary carer leave coupled by the active promotion in workplaces of shared use of that leave by mothers and fathers would also suggest greater support and investment in leave for fathers; however, we do not have data about the characteristics of the policies and the contexts in which they are offered. With the exception of several large companies, there is little evidence of widespread promotion of shared use of paid primary carer leave in workplaces and companies. Using this data set for the period 2009–2019, we assess the extent of change in the incidence of paid primary carer leave and paid secondary carer leave and changes in the duration of that leave, measured in weeks. A measure of employee take-up of the clauses is not available in this data set.

As a third and supporting indicator of change, we examine incidence and duration of parental leave in company policies as reported to the Workplace Gender Equality Agency (WGEA) for the period 2014–2019, and to WGEA's forerunner, the Equal Opportunity for Women in the Workplace Agency (EOWA) for the period 2009–2012, with a break in available data in 2011 and 2013. Reporting organisations are companies of 100 or more employees in the private sector and higher education sector who are required to report annually against a set of gender indicators, including paid leave for parenting. Some of these policies may have been negotiated with employees or unions (and could thus also appear in the WAD), but in other cases, they will be separate policies introduced unilaterally by the employer, often in line with the 'business orientation' identified by Baird (2004). The data collected have changed from being categorised as paid maternity leave and paid paternity leave prior to 2014, to paid parental leave (primary carer) and paid parental leave (secondary carer).<sup>2</sup> WGEA also collects data on whether the company schemes top-up the government scheme or are in addition to the government scheme, signalling the generosity of the employer contributions. We support the analyses by referring to Australian Bureau of Statistics (ABS) data and administrative data from the federal Department of Social Services on the take-up rates of Paid Parental Leave and DaPP by parents (mothers and fathers/partners).

The analysis across the three areas of public policy, bargaining outcomes and company policies must by necessity of the evidence we draw on be a high level assessment of availability rather than use, and does not provide a definitive account of shifts in gender equality with respect to parental leave use in Australia over the past decade. Further research should do more detailed analysis of the wording of clauses and company policies and the industry patterns in provision. However, we argue that through the combined analysis of the three domains of policymaking, we get a clear sense of whether or not there is a move

to more or less gender equality in both the policy orientations and paid parental leave entitlements.

### ***Public policy: Government PLP and DaPP***

Australia's PLP scheme, enacted in 2010, was a significant policy gain for Australian working women (Baird and Williamson, 2011), but it produced mixed results for gender equality. In the first instance, the scheme provided a period of paid leave at the National Minimum Wage to many parents, especially working mothers in the private sector, who until that point did not have access to any paid parental leave or who had access to a very short period of paid leave from their employer. Evaluation of the scheme over the period 2010–2014 showed that it contributed to a reduction in the proportion of mothers who returned to work within the first 18 weeks after the birth of the child (Martin et al., 2014), a positive development in child and maternal health and wellbeing. It also contributed to a potential increase in the proportion of women who returned by 12 months, and a small increase in the proportion of women returning to a position at the same level and conditions, particularly among low-income women and women in casual or insecure work (Martin et al., 2014). The scheme therefore had small but significant positive effects on the health, wellbeing and labour market participation of mothers.

While it offered small but important increases in mothers' labour market attachment and incomes early in the babies' lives, the PLP scheme was limited in the extent to which it promoted gender equality. First, international evidence suggests that 26 weeks is the duration of paid parental leave that is advantageous for both child health and mothers' health and labour market participation (AHRC, 2013; Baird and Constantin, 2015), but the duration of the scheme was only 18 weeks (though a small proportion of working women would have been able to use their employer schemes to top up their paid leave period to 26 weeks). Second, the low rate of payment limited the extent to which it could mitigate the effects of child-bearing and rearing on wages and retirement incomes, and this was exacerbated by the failure to attach a contribution to superannuation (i.e. retirement savings) to the scheme. Third, making the payment conditional on labour market withdrawal for a single 18-week period (with the exception of 10 keeping in touch days) limited parents' opportunities to stay engaged in the labour market (i.e. part time or in short blocks) during the early months of their babies' lives.

While the scheme was limited in the extent to which it could mitigate the impacts of childbearing and rearing on mothers' labour market attachment and incomes, it was even more limited in the extent to which it facilitated the more equal distribution of work and care between women and men. In spite of being 'parental leave' in name, a number of design features of the scheme meant that it was unlikely to be utilised by men. While it is available to the 'primary carer', which is ostensibly gender neutral, the entitlement is in fact conferred to the 'birth mother' who must then transfer that entitlement to the father or partner if they are



to be the primary carer (Baird and O'Brien, 2015). The scheme is paid at the minimum wage, and research suggests that men are much less likely to take up payments if the rate is low and not set at a reasonably high level of wage replacement (Haas and Rostgaard, 2011). In Australia, the minimum wage is roughly 40% of average full-time male earnings (ABS, 2020), so PLP offers a low wage replacement rate.<sup>3</sup>

Some design features of the original scheme even *prohibited* the equal sharing of the PLP period. For example, the scheme was relatively short in duration (compared to many overseas schemes) and had to be taken by the primary carer in one continuous block, which meant that it was not possible for women to take a period of the leave after the birth and then transfer the balance to a partner. Currently, take-up rates of PLP among men are extremely low, at 0.5% (Wood et al., 2020: 42). In this context, according to the framework developed by Brighthouse and Wright, the original scheme had features that can be conceived as 'equality impeding': while it was technically available to either parent, the design features meant that it was almost solely taken by women.

The addition of DaPP in 2013 was a significant amendment to the scheme. Introduced with the goal of increasing opportunities for fathers to actively participate in the early weeks of a child's life, this offered fathers and same-sex partners two weeks of paid leave, also at the National Minimum Wage, provided they met the same work, residence and income requirements as those governing access to PLP. DaPP made the government scheme slightly more gender equitable by giving fathers or partners an exclusive right to two weeks PLP. However, DaPP has not had high take-up and has failed to create a significant shift in the sharing of parental leave periods between couples. At present, administrative data provided in the annual report of the Department of Social Services report 91,762 fathers or partners received DaPP in the financial year 2018–2019, which is estimated to be approximately 25% of eligible fathers and partners (Australian Government, Department of Social Services, 2019: 68). This is much higher than men's take-up rate of PLP; however, it remains much lower than women's take-up of PLP, and most fathers and partners are not using the payment in spite of its being designed for them and available on a use-it-or-lose-it basis. There are a number of reasons behind fathers' low take-up of DaPP. The rate of pay is at the minimum wage, which as mentioned above is a disincentive to take-up by men (Martin et al., 2014). The scheme is to be taken in a single block, which limits the flexibility with which fathers can use the leave. The scheme has not been well publicised or encouraged, and many view the administrative burden of applying as too high given the reasonably small payment (Martin et al., 2014). There also continues to be stigma attached to Australian working fathers taking paternity leave or flexible work options, making it difficult for many fathers to request a 2-week period of leave after the birth of their child. Consequently, while the DaPP provision was 'equality enabling' in character, it has had limited effect in promoting gender equality.

The most recent changes in the PLP scheme came in 2020 in two tranches, with the first changes coming into effect from 1 January 2020. The 'work test' was

changed so that more women employed casually, seasonally or with breaks in employment (such as teachers, academics, jockeys and journalists) are eligible for PLP, and to allow women in 'dangerous jobs' to cease work and commence PLP prior to the due date. A second set of changes came into effect from 1 July 2020 aimed at increasing flexibility in the use of PLP and the sharing of time between parents. These changes remove the requirement that the whole 18-week period be taken by the primary carer in one single block, allowing more flexibility in the timing of the leave period and making it easier to transfer a part of the entitlement between partners. The amendment stipulates that an initial 12-week block of the PLP entitlement must be used in a single block within the first 12 months after the birth or adoption of a child. However, the remaining 6 weeks (30 days) can now be used at any time within the first 2 years, and the claimants can make more than one transfer of Paid Parental Leave to an eligible partner. In essence, these changes allow parents to split the current 18-week single period of parental leave into one block of 12 weeks, with the rest, 30 workdays or 6 weeks, to be used flexibly over 2 years, rather than 1 year. The 30 days can be taken in periods of 1 day or more. This allows mothers to take a portion of the leave period flexibly, providing the option of re-engaging in the labour market earlier in some capacity. Furthermore, these 30 workdays can be more easily shared with the other parent. This change has slight echoes of the Nordic model where the scheme can be used in smaller parts (i.e. single days), over a longer period of time and with some encouragement of fathers to use the leave. Indeed, an explicit aim of the proposed policy is to provide more options for fathers and partners to participate in childcare.<sup>4</sup>

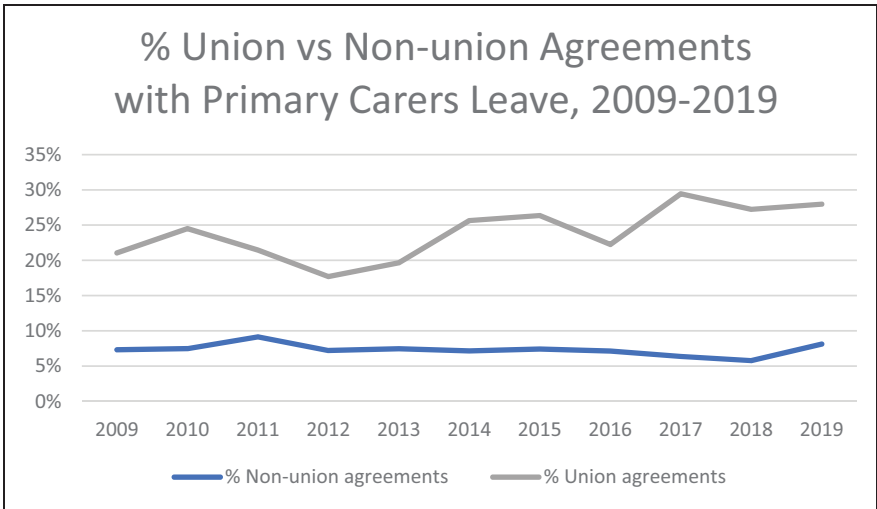
The flexibility amendment has the potential to improve gender equality in the taking of PLP, because it allows a portion of the PLP period to be allocated to a secondary claimant (and even a tertiary claimant in some instances), which given current parenting patterns in Australia, is most likely to be the father or partner. In this respect, the new flexibility can be considered a step towards 'equality enabling', in that it provides leave for families as well as mothers, without being accompanied by provisions that encourage the gender-equitable sharing of the leave period. However, though research suggests that men are more likely to use PLP if it can be taken flexibly, significant barriers remain to the gender-equitable sharing of leave. The same limits of low wage replacement rates, short duration and lack of communication about the scheme's changes are likely to impede use by fathers and partners. In addition, the total PLP allowance being shared between partners is very short and is a proportion of a PLP period that is already short in duration by international standards. There is also a potential risk that the amendment signals a reduction in the 'normative' duration of paid leave time for mothers after the birth of a child from 18 weeks to 12 weeks, undoing some of the progress achieved in the introduction of PLP that extended the duration of paid leave available to most mothers. Monitoring of the new flexibility will be necessary to test the impact on gender equality.

Hence, the initial design of the PLP scheme, despite being called parental leave, favoured uptake by mothers, and the evidence is that it has played out that way, with 95.5% of uptake by mothers (Wood et al., 2020: 42). The introduction of DaPP was a step towards enabling fathers to share in care, at least for a short time, but design features meant that the uptake has been low. Finally, the recent flexibility introduced to the scheme, while aimed at promoting gender equality, is unlikely to increase use by fathers or partners to any great extent as they do not make a substantive change to the scheme’s design.

### Workplace agreements

Using the WAD, this section examines trends in the outcomes of workplace bargaining in paid parental leave in Australia, including changes between 2009 and 2019 in the incidence and duration of union and non-union agreements for paid primary carer leave and paid secondary carer leave. Unlike in many other countries, agreements can be made by a non-union entity (Bray et al., 2020) and while union bargaining is the majority pattern, we also present data for non-union agreements. It should be noted that overall there has been a decrease in collective agreement-making over the past 10 years, attributed to a suite of issues including a decline in unionisation rates, employers’ growing resistance to bargaining and a regulatory environment that does not promote collective bargaining (Pennington, 2020).

Bargaining activity and the provision of paid primary carer leave is illustrated in Figure 1. Overall, paid primary carer leave is more common than paid secondary

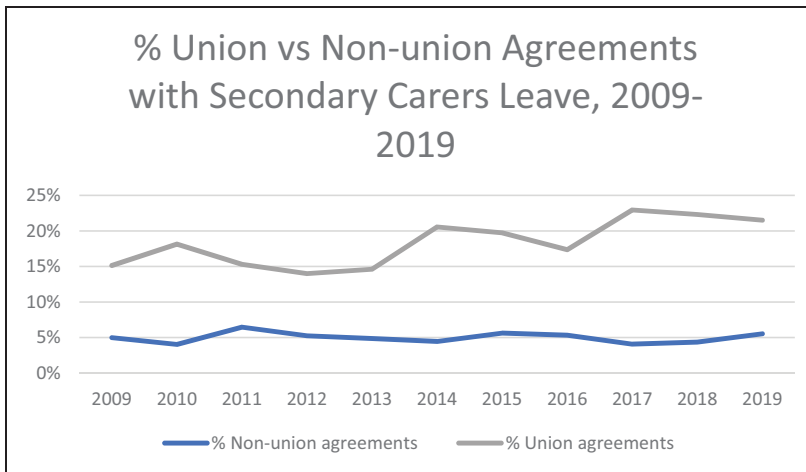


**Figure 1.** Proportion of agreements with paid primary carer leave 2009–2019. Source: Reproduced with permission from Attorney-General’s Department (2020).

carer leave but present in less than one-third of all agreements, and this pattern has remained the same over the decade 2009–2019. While there is some unevenness over the period which reflects the timing of agreement making and the length of agreements (usually 2 or 3 years), there is modest growth in the proportion of union agreements with a paid primary carer leave provision, from 21% in 2009 to 28% in 2019. For non-union agreements, the shift has been negligible.

While just over one-quarter (28%) of agreements included a paid primary carer leave clause, this figure tends to underestimate the proportion of employees who have access to the provision. An average of 50.25% of all employees under an enterprise agreement registered in 2019 (Attorney-General's Department, 2020) had access to a paid primary carer leave clause. This difference occurs because larger organisations and the public sector are more likely to have enterprise agreements than small businesses and the private sector, thus their agreements cover more employees. The proportion of employees covered varies each year depending on which agreements are being registered, but the average proportion of enterprise agreement-covered employees with access to a paid primary carers leave clause was 52% over the decade.

Bargaining activity and the provision of paid *secondary* carer leave is illustrated in Figure 2. It shows there has also been modest growth in the proportion of union agreements with a paid secondary carer leave provision, from 15 to 22% of union agreements between 2009 and 2019. For non-union agreements, the shift has again been negligible. The similarity in the pattern of union and non-union bargaining for paid primary and secondary carer leaves suggests that the distinction between primary and secondary carer has become embedded in agreements, and it would require a new clause to combine into one form of parental leave, open to both



**Figure 2.** Proportion of agreements with paid secondary carer leave 2009–2019.

Source: Reproduced with permission from Attorney-General's Department (2020).

primary and secondary carers. Such a bargaining approach, if it were adopted, may signal a more equitable orientation.

In 2002, the International Labour Organisation (ILO) minimum paid parental leave recommendation shifted from 12 weeks to 14 weeks (ILO, 2010), and since that time the number of countries to have ratified this convention has been steadily increasing. In Australian workplace agreements, the average duration of the primary carer leave period remained the same in 2019 as it was in 2009, that is 12 weeks, although there was a small increase to 14 weeks in 2014 and 2018. While in 2009, non-union agreements had fewer weeks on average of paid primary carer leave (10 weeks, compared with the 12-week average in union agreements), this has gradually increased so that in 2019 the average period of union and non-union primary carer leave periods was the same, at 12 weeks.

The duration of secondary carer leaves also remained stable at 2 weeks throughout the period, although some agreements registered in 2017 included 4 weeks. A lower proportion of non-union agreements include paid secondary carers leave but the duration is the same, at 2 weeks.

In sum, in the domain of collective bargaining, we can observe a small increase (7%) in the prevalence of both primary and secondary carer leave in agreements. The growing prevalence of primary carer leave suggests an increase in the incidence of 'equality bargaining' on the subject of parental leave, or bargaining relating to improving women's working conditions (Baird et al., 2009; Williamson and Baird, 2014). However, without other details of the clauses (such as whether or not they are available across genders), and without data on take-up rates of primary carer leave by gender, we know little about the impacts of the increase in prevalence of primary carer leave on the involvement of men in caring. A better indicator of bargaining for paid parental leave (PPL) arrangements that enable or encourage the participation of men as carers is the increase in prevalence of secondary carer leave, as this is typically targeted at fathers and male partners. We can assume that the leave periods would be paid at wage replacement levels and therefore are likely to be more attractive to fathers than the government scheme. However, we do not have data on take-up of secondary carer leave.

While there has been a modest increase in the *prevalence* of primary and secondary leave, there has been little movement in the *duration* of primary or secondary leave, with the exception of some agreements in 2017 where the rate was 4 weeks. Consequently, a large gap remains between the average duration of primary and secondary leave, with secondary leave remaining much shorter. This difference in duration between primary and secondary carer entitlements sends a clear signal that the primary carer will do most of the care, and the secondary carer only a short period. Among the roughly half of employees with access to collectively-bargained primary carer leave, those with access to the average duration of 12 weeks will, when added to the government scheme, have access to 30 weeks of leave (half at wage replacement or a portion thereof, and half at the minimum wage, unless they use options within both schemes to use the leave more flexibly). In contrast, the much lower level of secondary carer leave in both the government

and collectively-bargained agreements would see secondary carers who combine the government and collectively bargained schemes still only having access to a total of 4 weeks paid leave (half at wage replacement and half at the minimum wage). The norms of the government scheme are therefore in many ways reflected in the collectively-bargained provisions, in terms of both the duration and in the sense that they may be 'parental' in name but for the most part assume that most care will be done by one 'primary' carer, likely to be the mother.

### *Employer policies*

To understand changes in employer schemes, this section will draw on WGEA data for 2012 and from 2014 to 2019 (data from 2011 and 2013 are not available). In 2012, WGEA reported on provision of paid maternity and paid paternity leave, before changing the numbers to paid primary carer leave and paid secondary carer leave in 2014–2019.

According to EOWA data (the predecessor of WGEA), the provision of paid maternity leave has been on an upward trajectory since the turn of the century, increasing from 35.6% of reporting employers in 2002–2003 to 54.9% in 2009–2010, the year prior to the introduction of the government PLP scheme. By 2012, a year after the implementation of the government PLP scheme, the proportion of reporting employers providing paid maternity leave had dropped to 51.7%.

Between 2014 and 2019, the proportion of employers providing paid parental leave for the primary carer remained fairly stable, at just under 50%. It rose from 48.5 to 49.4% over the period with a small dip to 45.9 in 2017. These data refer to parental leave that is available to either male or female primary carers. Since 2017, WGEA has also collected data on the proportion of employers offering paid parental leave to women only. The proportion is low, sitting at around 4.8% since 2017.

A small proportion of employers provide their paid parental leave for primary carers in the form of a 'top up' to the government scheme, making up the difference between the minimum wage and employees' full rate of pay. The proportion of employers taking this approach increased from 8 to 10% over the period 2014–2019. This approach means that the duration of the employer-provided scheme cannot exceed the 18-week duration of the government scheme but can be fewer weeks than the government scheme. While about 1 in 10 employers that provide paid parental leave do so by topping up the government scheme, a much greater proportion do so at full pay in addition to the government scheme. More than 80% of employers that provide paid parental leave for primary carers provide it in this way, and the proportion increased from 80.6 to 82.3% between 2014 and 2019. These two approaches – topping up the government scheme and paying full pay in addition to the government scheme – facilitate different combinations of the government and employer schemes and shed light on the ways in which Australia's hybrid approach to parental leave operates. When combining the two schemes, employees in the first category are likely to have a shorter duration of the leave period (maximum 18 weeks) at full pay, whereas those in the second category are likely to have

access to a considerably longer leave period (18 weeks PLP plus however many weeks of employer-funded leave) unless they choose to take them concurrently.

The average period of paid maternity leave in 2012 was 9.7 weeks, increasing to 10.6 weeks (paid parental leave) in 2014 and 10.7 weeks in 2019 (though there was a dip in the average duration of paid parental leave for primary carers between 2014 and 2019).

While the proportion of employers providing paid parental leave for primary carers increased very slightly in the period 2014–2019, there was more change in the area of leave for secondary carers. In 2012, the proportion of employers providing paid *paternity* leave was 38.1%, at an average duration of 1.6 weeks. In the period 2014–2016, the proportion of employers providing paid parental leave for secondary carers increased by 5%, from 38.8 to 43.8% over the same period. The average *duration* of paid parental leave for the secondary carer offered by employers in 2019 was 1.7 weeks, which had increased from 1.5 weeks in 2014.

The duration of both the primary and secondary carer provisions offered by employers are roughly 10% shorter than both the government and collectively-bargained schemes, which are more closely aligned in duration. While most primary and secondary carer paid parental leave schemes are accessible to both women and men, recent ABS data on take-up in the private sector show that 95% of primary carer paid parental leave was taken by mothers, and 95% of secondary carer paid parental leave was taken by fathers (ABS, 2017), suggesting that accessibility to both parents makes little impact on take-up rates across genders unless coupled with other measures.

Hence, as with the government and bargained schemes, company policies are increasing in prevalence but not duration. This means that while access to both primary and secondary carer leave is more common, and wage replacement levels offer greater encouragement for men to take them, the periods remain short and heavily differentiated, such that secondary carer leave is framed as a short break. Hence, they may improve equality insofar as more people have access to the provisions, mitigating the impacts of childbearing and rearing on labour market outcomes and earnings over the lifecourse. However, when it comes to improving gender equality in the distribution of both work and care, the trend is more equality enabling (i.e. providing leave for families rather than mothers but without being accompanied by measures to encourage parents to share the entitlement), rather than equality promoting.

## **Where are we now with parental leave in Australia?**

The introduction of Australia's first government-funded PLP scheme in 2010 was very important in expanding access to paid parental leave beyond the minority receiving employer schemes. It provided greater financial security (and more financial autonomy) after the birth of a child for many women who would previously have taken unpaid leave during that time and resulted in small improvements in women's labour market outcomes. More importantly, it contributed to a

normative climate in which paid parental leave was valued and supported by government, and set the foundation for greater government involvement in supporting women and men to take paid leave in the early period of their child's life. At the time of the introduction of the government PLP scheme, it was constructed as a 'first step' to be improved upon by government and supplemented by employers to provide the best outcomes for women, men and children. The small improvements to women's labour market attachment and financial security and to maternal and child health have been valuable, but the original scheme did little to encourage the more equal sharing of care by women and men. The scheme needed reform if it was to improve both women's labour market outcomes and men's involvement in care, promoting gender equality.

We argue that while the introduction of the government scheme has seen the state play a much stronger role in Australia's paid parental leave infrastructure, collective bargaining and company policy continue to play a significant and slowly growing role as domains of parental leave policymaking in Australia's hybrid system. Ten years on from the introduction of the government scheme, the 'orientations' (Baird, 2004) of the three domains remain broadly the same: unions and companies continue to take bargaining and business approaches respectively, which remain focused on providing more primary carers (most often working women) with a wage-replacement-level leave entitlement. The government scheme continues to take a welfare approach (coupled to some degree with neo-liberal labour market arguments), with a minimum-level payment focused on child and maternal health and, to some extent, female labour supply. However, all three approaches now pay more attention to fathers and shared care in the early weeks after the birth.

When it comes to gender equality in the distribution of work *and care*, the original government scheme had features that could be conceived as 'equality impeding'. It was 'parental leave' in name and was technically available to either parent but was targeted at the birth mother and the design features meant that it was almost exclusively taken by women. The new flexibility can be considered a step towards 'equality enabling', in that it provides leave for families rather than mothers, without being accompanied by provisions that encourage the gender-equitable sharing of the leave period. The introduction of DaPP is a positive step towards creating opportunities for men to be more involved in the care of their children in the early weeks, and towards creating a normative climate that promotes the involvement of fathers in care. However, this cannot be considered 'equality promoting' in Brighthouse and Wright's sense because it does not encourage families to share parental leave in a gender-egalitarian way. While it is earmarked for secondary carers (most likely to be men), other design features mean that take-up is low, and even if take-up was high, the large difference in the duration of PLP and DaPP does not encourage a gender-egalitarian sharing of care.

Patterns and features in the government scheme are mirrored in workplaces. The WAD and WGEA data reveal evidence of a small increase in the availability of both paid primary and paid secondary carer leave. This suggests a possible small



growth in attention to improving women's working conditions and to acknowledging the need for fathers to take leave at the birth of the child. We can assume that these provisions are offered at wage replacement rates and, if available to both parents, they are likely to continue leading to higher take-up of both primary and secondary carer leave by men compared with the government scheme. However, take-up of primary schemes by men remains low, and we do not have enough information about the clauses or workplace cultures to explain this, although previous research shows both to be important contributors to men's uptake (Baird et al., 2009; Haas and Hwang, 2019). Secondary carer leave also remains less prevalent than primary carer leave. In addition, there has been little change in the *duration* of the two leave types and a large gap remains between the duration of primary carer leave and the duration of secondary carer leave. Consequently, this still cannot be considered 'equality promoting' in Brighthouse and Wright's sense because it does not encourage families to share parental leave in a gender-egalitarian way. Clauses, policies or workplace contexts that encourage or incentivise *shared* use of paid *primary* carer leave by mothers and fathers would lead to more equitable outcomes, and while this is already occurring in several companies, the extent of this is unknown and will be the subject of further research.

Overall, therefore, changes in the last 10 years have seen a small increase in availability of parental leaves for primary carers that mitigate the impacts of child-bearing and rearing on women's labour market participation. While this has been accompanied by a modest increase in the availability of secondary carer leaves (which are often targeted at men and, in the case of the government scheme, explicitly for fathers and partners), this does not constitute an attempt to redistribute care between women and men. Rather, short secondary carer leaves set normative standards of fathers as 'supporters' at the time of birth, rather than being substantively involved in the care of their children in the early years. While having time together at the birth of a child is important for couples and babies, the egalitarian sharing of *primary* care over a longer period is what will lead to the most gender-equitable outcomes.

On the evidence available from both the WAD's estimates of employee coverage and WGEA's estimates, it appears that just over 50% of employees will be able to combine the government scheme with a workplace or employer scheme, which (except in the cases of employer 'top-up' schemes) will see longer periods of paid primary carer leave, and in some cases paid secondary carer leave. However, the shared pattern across sectors of longer primary carer leave taken predominantly by women and shorter secondary carer leave taken predominantly by men means that the combination of schemes may improve women's labour market outcomes but will still do little to increase men's ongoing involvement in the primary care of their children. Consequently, over the last 10 years, Australia's parental leave infrastructure has seen a slight shift from fewer 'equality impeding' features and more 'equality enabling' features, but very limited development in 'equality promoting' features that encourage the egalitarian sharing of parental leave between women and men.

## Where to next?

Improving the extent to which Australian parental leave policies promote gender equality must involve further reform. In the government scheme, increasing the duration, flexibility and rate of PLP would boost its potential to increase gender equality. Making a portion of an already short and low-rate scheme more easily accessible by fathers (as in the 2020 changes) will not contribute substantially to overcoming gender inequalities. More extensive change is needed. Providing options for fathers to take PLP would be more effective if done in a 'gender collaborative context' (O'Brien and Shemilt, 2003), that is, by lengthening the period of 'primary carer' parental leave available to couples and then building in features that enable and encourage couples to share the leave more equally. Extending the duration to 26 weeks would provide most working women with access to the period of leave considered to be best for maternal and child health and beneficial for labour market attachment (Ray et al., 2010). It would also increase the likelihood of take-up by men because the shareable leave period is longer. Making the whole 26 weeks available to either parent provided they are the primary carer, without having to be transferred from the mother to father/partner, would also shift the normative assumption embedded in the scheme that parental leave is for mothers. Enabling both parents to use and share the whole period flexibly would also facilitate greater opportunities for both parents to combine part-time paid work with primary care of their child. Increasing the rate of payment, and adding superannuation, would improve the extent to which the scheme mitigates the current negative impact of leave on income and savings, and would also increase the likelihood of take-up by men, as men are more likely to use parental leaves if the rate is closer to wage replacement levels (Haas and Rostgaard, 2011).

While these features would *enable* a more gender-equal sharing of leave, it would not *encourage* it. We also suggest that measures be introduced into the government scheme that encourage the more gender-equal sharing of primary carer leave, following international precedent in nations that include father/partner quotas and other incentives (i.e. Iceland, Norway, Sweden, Denmark, Finland and Germany) (Haas and Rostgaard, 2011). For example, in the Australian scheme, governments could consider introducing a bonus period of leave on top of the 26-week period (a 'shared care bonus') offered to couples who have shared the original period of leave equally or, where the whole or most of the 26-week period was used by one parent, must be used exclusively by the other parent in order for the couple to receive the bonus. The duration of this bonus period must be adequate, such as at least eight weeks, in order to shift behaviour.

In bargaining and workplaces, efforts should be focused less on secondary carer leaves and more on increasing the duration and flexibility of paid primary carer leaves, and on creating incentives for primary carer leaves to be taken by fathers and partners, so that 'primary carer' is not automatically associated with the mother. Policies encouraging use by fathers must also be accompanied by changes to the

normative climate in workplaces and communities that promote and enable the use of paid primary carer leave by men (Haas and Rostgaard, 2011; Reimer, 2020).

In conclusion, while the introduction of the Paid Parental Leave Act in 2010 was a ‘giant leap’ forward in Australia’s policy framework at the time, changes in the government scheme and outcomes in workplace agreements and company policies over the last decade have taken just ‘baby steps’ to improving gender equality in the provision of paid parental leave. As we argue, there is therefore much that could be done in the policy arena, in workplace bargaining and in company policy arrangements that could improve the position for working parents and gender equality overall.

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### Notes

1. These three domains constitute the parental leave policymaking environment for Australian employees. The leave entitlements of employees in the public service in each state (except Victoria) are set by the state legislatures, as well as awards and agreements. There may also be occasional individual bargains made between an employee and an employer but no data source captures these.
2. The paid parental leave questions were restructured in 2017 to separate paid parental leave that is offered to both women and men from leave that is offered to women only or men only. [https://data.wgea.gov.au/industries/1#carers\\_content](https://data.wgea.gov.au/industries/1#carers_content)
3. The National Minimum Wage is currently AUD \$753.80 per 38-hour week. In May 2020, average weekly total full-time earnings of men in Australia was AUD \$1889.70 (ABS, 2020).

4. According to MP Alan Tudge (Minister for Population, Cities and Urban Infrastructure) in his second reading speech of the bill, 'Increasing the flexibility of paid parental leave may encourage greater uptake of parental leave pay by secondary carers, contributing to changing social norms around sharing care and encouraging men to take parental leave'. <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=CHAMBER;id=chamber%2Fhansardr%2F4a263c90-4a15-4591-b1e6-7cd74f566c21%2F0034;query=Id%3A%22chamber%2Fhansardr%2F4a263c90-4a15-4591-b1e6-7cd74f566c21%2F0035%22>

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