

## Chapter 4

### Women's working experience

4.1 In conjunction with the gender pay gap, women's workforce participation has a significant effect on lifetime wealth accumulation and retirement savings. Women are more likely to take time out of paid employment to care for children or family members, and are more likely to be employed part-time due to caring responsibilities. Many of the submissions and witnesses argued that increasing women's workforce participation rates would improve greatly women's economic security in retirement. This chapter assesses the various causes and barriers to women's workforce participation, including gender and age discrimination. It also examines measures to maintain women's attachment to the paid workforce, flexible working arrangements, access to affordable childcare and paid parental leave.

#### Women's workforce participation

4.2 Women's workforce participation has increased dramatically over the last 40 years, resulting from an increase in the proportion of women of childbearing age working. In 1978, only 39 per cent of the female population over 15 years of age was in paid employment (compared to men's employment rate of 75 per cent), whereas in 2015 the employment rate was 55 per cent (the rate was 66.7 per cent for men).<sup>1</sup> Despite these developments, the increase in the number of women in the workforce as a proportion of the adult population has stagnated over the past decade, and the proportion of women working full-time is similar to the proportion in 1978.<sup>2</sup> Women are also more likely to be employed part-time. Approximately two-thirds of the part-time workforce are women, with 46.4 per cent of all employed women working part-time compared to only 18 per cent of all men. Overall, women undertake the majority of unpaid domestic work and men the majority of paid work.<sup>3</sup>

4.3 In addition to lower workforce participation rates, the ASU noted that women with caring responsibilities were more likely to be employed in lower paying jobs and in more insecure employment such as part-time, casual or labour-hire employment.<sup>4</sup>

4.4 Professor Patricia Apps, a Professor of Public Economics at the University of Sydney, observed:

...while female employment participation rates have risen dramatically, most women are either working part-time or are not in the workforce. The result is a gender gap in labour supply in the order of 40 to 50 per cent across the entire life cycle, not just when their children are young. This creates a loss of human capital, which partly explains lower wages later on,

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1 Women and Work Research Group, *Submission 76*, p. 3.

2 Women and Work Research Group, *Submission 76*, p. 4.

3 Women and Work Research Group, *Submission 76*, p. 3.

4 Australian Services Union, *Submission 81*, p. 12.

prevents the necessary expansion of the tax base and undermines economic growth.<sup>5</sup>

4.5 Dr Brendon Radford, National Seniors, pointed out that 'by providing the support to get women back into the workforce, you are actually creating greater productivity within the country in economic growth because more people are working and more people are paying taxes'.<sup>6</sup> The AIST observed that:

...if Australia could match Canada with 6 percent more women in the paid workforce (i.e. an 88 percent female participation compared with men's), the Australian economy would increase by about \$25 billion a year. If the gap was closed completely, it would be by about \$195 billion or 13 percent of Australia's GDP.<sup>7</sup>

### ***Gender discrimination and workforce participation***

4.6 Many submissions highlighted the ongoing prevalence of gender discrimination in the workplace, particularly around parental leave. A National Review conducted by the Australian Human Rights Commission (AHRC) in 2014 (*Supporting Working Parents: Pregnancy and Return to Work National Review*) found that one in two (49 per cent) mothers report experiencing discrimination in the workplace at some point during pregnancy, parental leave or upon return to work. Interestingly, the research found that over a quarter of fathers and partners also reported experiencing discrimination relating to parental leave and return to work. Thirty-two per cent of all mothers who were discriminated against during pregnancy went to look for another job or resigned. Further, almost one in five (18 per cent) mothers indicated that during their pregnancy or when they returned to work they were either made redundant or that their jobs were restructured; or they were dismissed or that their contract was not renewed.<sup>8</sup>

4.7 Consistent with the findings of the AHRC, the Finance Sector Union (FSU) found a similar prevalence of discrimination among its members, and argued that discrimination legislation should be strengthened to provide adequate protection from unlawful treatment for pregnant women and carers.<sup>9</sup>

4.8 The ACTU argued that addressing gaps in anti-discrimination law would help to reduce the effect of discrimination on women's workforce participation. In particular, discrimination relating to pregnancy and returning to work after parental

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5 Professor Patricia Apps, *Committee Hansard*, 12 February 2016, p. 28.

6 Dr Brendon Radford, Senior Policy Advisor, National Seniors, *Committee Hansard*, 19 February 2016, p. 6.

7 Australian Institute of Superannuation Trustees, *Submission 45*, p. 15.

8 Australian Human Right Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review—Report*, 2014, p. 8.

9 Finance Sector Union, *Submission 29*, p. 4.

leave, which continues to be a widespread issue that contributes to women's under-participation or withdrawal from the workforce.<sup>10</sup>

4.9 The ACTU supported the AHRC's recommendation, as made in its National Review report, that the *Sex Discrimination Act 1984* should be amended to extend the discrimination 'ground of "family responsibilities" to include indirect discrimination, and include a positive duty on employers to reasonably accommodate the needs of workers who are pregnant and/or have family responsibilities'.<sup>11</sup>

#### ***Age discrimination and workforce participation***

4.10 The AHRC observed that older women are 'more likely than men to face age discrimination due to perceptions that they have outdated skills, are too slow to learn new things or that they will deliver an unsatisfactory job'. As such, older women face greater barriers to obtaining employment.<sup>12</sup>

4.11 Importantly, the AHRC is currently conducting a national inquiry into Employment Discrimination against Older Australians and Australians with Disability. The AHRC inquiry's Issues Paper stated:

There are considerable economic costs associated with low labour force participation of older Australians. According to Deloitte Access Economics, an extra 3 percentage points of labour force participation among workers aged 55 and over would result in a \$33 billion boost to GDP—or around 1.6% of national income.<sup>13</sup>

4.12 The Hon Susan Ryan AO, Age and Disability Discrimination Commissioner, explained that the women the AHRC had spoken to during the consultation for its current inquiry had experienced both direct and indirect discrimination. For example:

Either they are subjected to direct discrimination—like they are offered redundancies or they are told they are not required anymore—or they experience indirect but very damaging age discrimination, such as not being able to apply for promotions or not being able to apply for training courses which are essential to keep their skills up-to-date.<sup>14</sup>

4.13 Women in Super highlighted the effect of age discrimination on women's security in retirement. It stated:

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10 Australian Council of Trade Unions, *Submission 69*, p. 4.

11 Australian Council of Trade Unions, *Submission 69*, p. 17; Australian Human Right Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review—Report*, 2014, p. 12.

12 Australian Human Right Commission, *Submission 36*, p. 2.

13 Australian Human Right Commission, *Issues Willing to Work: Employment Discrimination against Older Australians and Australians with Disability—Issues Paper: Employment discrimination against older Australians*, 2015, p.8, <https://www.humanrights.gov.au/sites/default/files/document/publication/discussion-paper-age.pdf> (accessed 30 March 2016)

14 The Hon Susan Ryan AO, Age and Disability Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 12 February 2016, p. 2.

Age discrimination (although illegal since the introduction of the Age Discrimination Act 2004) impacts the ability of many older women to accumulate superannuation in later life. Many women (and men) need to work past retirement age for many reasons including inadequate superannuation. However, for many finding a full-time or part-time job is difficult. For those who have been out of the workforce for a period of time and find the need to return to work due to changed circumstances in their 50s and beyond (for example divorce, death of a partner) it is difficult to find suitable work.<sup>15</sup>

4.14 COTA Australia expressed concern about the effect of a combination of sex and age discrimination on older women returning to the workforce. It referred, in particular, to:

...the impact on living standards and retirement incomes of women who exit the workforce in their 40s and 50s to care for grandchildren and/or ageing parents and then, when the need has passed, find themselves unable to return to work due to a combination of age and sex discrimination and the way the labour market tends to operate.<sup>16</sup>

#### *Committee view*

4.15 The committee considers that increasing women's workforce participation will significantly improve retirement outcomes for both younger and older women. The evidence the committee received clearly demonstrated that, despite anti-discrimination legislation, both age and gender discrimination continue to persist in Australian workplaces, creating a significant barrier to women's workforce participation.

#### **Recommendation 3**

**4.16 The committee recommends that the Australian Government consider carefully the recommendation from the Australian Human Rights Commission's *Supporting Working Parents: Pregnancy and Return to Work National Review*, to amend the *Sex Discrimination Act 1984* to:**

- **extend the discrimination ground of 'family responsibilities' under the Sex Discrimination Act to include indirect discrimination; and**
- **include a positive duty on employers to reasonably accommodate the needs of workers who are pregnant and/or have family responsibilities.**

**4.17 Following its inquiry into Employment Discrimination against Older Australians and Australians with Disability, the Australian Human Rights Commission's findings may provide further opportunity to introduce measures to address age discrimination experienced by older Australians, particularly women.**

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15 Women in Super, *Submission 50*, p. 23.

16 COTA Australia, *Submission 86*, p. 7.

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## Flexible work arrangements

4.18 Many submissions and witnesses highlighted the importance of workplace flexibility arrangements for parents, carers and older workers. The WGEA highlighted the need to promote and encourage flexible work for both men and women. According to data provided by the WGEA, only 60.2 per cent of employers have a policy or strategy on flexible working arrangements. Half (50 per cent) of employers have policies on flexible working but only 14.6 per cent have a strategy for flexible working. A similar share of employers (58 per cent) have a family and caring responsibilities policy or strategy, the majority of which have a policy (47.2 per cent) rather than a strategy (14.6 per cent). The WGEA provides organisations with the tools to develop strategies for providing flexible working arrangements.<sup>17</sup>

4.19 In addition to the resources that the WGEA provides, the Fair Work Ombudsman has developed a best practice guide for individual flexibility arrangements for employers.<sup>18</sup>

4.20 The Fair Work Act provides employees in the national workplace relations system with a legal right to request flexible working arrangements. To be eligible, employees must have worked for their employer for at least 12 months on a full-time or part-time basis. Long-term casual employees—employed on a regular and systematic basis for at least 12 months—who have a reasonable expectation of ongoing employment are also eligible. Employees are eligible to request flexible working arrangements in the following circumstances:

- the employee is a parent, or has responsibility for the care of a child who is of school age or younger;
- the employee is a carer (within the meaning of the *Carer Recognition Act 2010*);
- the employee has a disability;
- the employee is 55 or older;
- the employee is experiencing violence from a member of the employee's family; or
- the employee provides care or support to a member of their immediate family or household who requires care or support because they are experiencing violence from the member's family.

4.21 Under the Fair Work Act, employers must seriously consider a request for flexible working arrangements but may refuse on reasonable business grounds (which are discussed further below).<sup>19</sup>

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17 Workplace Gender Equality Agency, *Submission 79*, p. 13.

18 Fair Work Ombudsman, 'Use of individual flexibility arrangements', <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/use-of-individual-flexibility-arrangements> (accessed 12 April 2016).

4.22 A number of submissions, however, proposed strengthening the 'right to request' provisions under s 65 of the Fair Work Act to provide an enforceable right to request flexible working arrangements.<sup>20</sup> Parents, carers and older workers all have a right to request flexible working arrangements. For example, Ms Veronica Black, FSU, proposed strengthening the 'right to request' provision in the Fair Work Act, as currently:

...workers can request flexible working arrangements, but the right is to request, not a right to have. In fact, there is no process for appealing against a decision of your employer should they decide they are not prepared to grant you that flexibility.<sup>21</sup>

4.23 Ms Katie Biddlestone, SDA National, expressed a similar view:

We feel that in its current form it really is not working as a mechanism for workers to obtain flexible working arrangements. Because there are no rights, an employee can ask a question, but that is really all that the legislation provides for. We would like to see an improvement around section 65 of the Fair Work Act to ensure that there is an appeal mechanism for employees to go to the Fair Work Commission. So if there is a question around whether an employer is unreasonably refusing a request for flexible work arrangements, there is an independent body which can make that assessment and a ruling in relation to that.<sup>22</sup>

4.24 Carers Australia suggested that the right to request should be extended to include employees who have worked with an employer for less than twelve months. Ms Anna Morison, Carers Australia, stated

Obviously, that is there for some very good reasons, but it does discriminate against those [carers]...that are looking to get back into employment and it also sort of discriminates against our young carers, those that might have had a very delayed start to their employment career, and maybe are still caring, and are looking at entering their first job. If they still have caring responsibilities they are properly going to need flexibility right from the start. There are options there where we could look at strengthening that legislation and that framework.<sup>23</sup>

4.25 One carer, Ms Kathryn Squires, shared her own experience of difficulties balancing caring with paid work. She explained:

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19 Fair Work Ombudsman, 'The right to request flexible working arrangements', <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/the-right-to-request-flexible-working-arrangements> (accessed 12 April 2016).

20 See for example, ACTU, *Submission 69*, pp. 13–14; Carers Australia, *Submission 39*, p. 18.

21 Ms Veronica Black, National Coordinator, Organising and Development, Finance Sector Union, *Committee Hansard*, 19 November 2015, p. 11.

22 Ms Katie Biddlestone, National Women's Officer, Shop, Distributive and Allied Employees Association, *Committee Hansard*, 19 November 2015, p. 31.

23 Ms Anna Morison, Senior Policy Officer, Carers Australia, *Committee Hansard*, 19 February 2016, p. 16.

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I moved away from Canberra a number of years ago. I started working in event management up in Queensland, which was great. My parents became quite frail, so after about seven years up there I returned to Canberra. I lost a lot of my jobs on events because I was no longer local. I managed to retain a couple of those contracts. That is only a couple of times a year now. It is hard to hold on to those jobs. Another job I started in the last couple of years was a job in Sydney as a PA. That was really difficult, and I have now lost that job because I was often saying, 'I can't come because one of my parents is really ill and I have to stay and care for them.'<sup>24</sup>

4.26 The Age and Disability Discrimination Commissioner found that more could be done to change attitudes in the workplace towards people accessing flexible working arrangements:

So, again, we do need more promotion, and this is where government can do communications campaigns and initiate national discussions around these issues, so that a parent returning to work will know: 'I do have these rights,' and her coworkers and her immediate boss will know: 'This woman was entitled to go off on leave. She is entitled to come back. She is entitled to flexibility'.<sup>25</sup>

4.27 The Age and Disability Discrimination Commissioner noted that older people also have the right to request flexibility. However, she noted that in discussions with older people they expressed concern that it would put them in a 'bad light' with their employer.<sup>26</sup>

4.28 Carers Australia observed that there needs to be greater recognition that 'people need to leave work for different sorts of reasons, not just that they are parents of children—people care for elderly parents and people with disabilities'.<sup>27</sup>

4.29 The WGEA highlighted the need for more part-time or flexible senior management roles, with only 6.3 per cent of managerial positions being offered on a part-time basis in 2014–15.<sup>28</sup> In addition, there is a lack of training and opportunities for promotion for women who work part-time. The Age and Disability Discrimination Commissioner reasoned that there needed to be a discussion with employers on how to create more flexible workplaces, 'pointing to those who are doing it, like the ANZ and other employers who have worked out how to do it, and encouraging all employers to see the benefits'.<sup>29</sup>

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24 Ms Kathryn Squires, Carer, *Committee Hansard*, 19 February 2016, pp. 15–16.

25 The Hon Susan Ryan AO, Age and Disability Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 12 February 2016, p. 6.

26 The Hon Susan Ryan AO, Age and Disability Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 12 February 2016, p. 6.

27 Ms Morison, Carers Australia, *Committee Hansard*, 19 February 2016, p. 16.

28 Workplace Gender Equality Agency, *Submission 79*, p. 11.

29 The Hon Susan Ryan AO, Age and Disability Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 12 February 2016, p. 4.

4.30 The committee received evidence suggesting that some employers, and in particular smaller businesses, struggle with the complexity and administrative burden of implementing flexible workplace arrangements for their employees. For example, Mrs Andrea Slattery from the SMSF Association referred to her own experience as a small business owner in this respect:

We run a small business ourselves and we have a flexible workplace arrangement for all of our employees. We have 25 employees, very much along the lines of other small businesses. One of the things that is most difficult is actually physically managing the flexibility arrangements. When you have between about 10 and 50 employees, you do not have the capacity to have a HR person on site with all the forms and red-tape administration issues that you have.<sup>30</sup>

4.31 Ms Yolanda Beattie, Mercer, observed that 'it is one thing to mandate [flexible] requirements; it is another to equip employers to do it'. She stated:

We know that part-time work and job sharing is one of the hardest types of flexible work for employers to implement. It is the hardest, but it is not impossible. It just takes a different and more innovative way of thinking. That is really about rethinking job design and unpacking roles so that they can be designed in ways that can be done in three days or four days. You often hear about people having the experience of, 'I am getting paid for four days, but my outcomes haven't changed'. I think there is guidance needed for employers to be able to deliver that and achieve that realistically. When you put it in legislation, you require that conversation to happen and that investment to be made by employers—to really investigate how to make it happen and do it well.<sup>31</sup>

4.32 Mrs Slattery suggested that the government might provide small businesses with some guidance and support to help facilitate the introduction of flexible workplace arrangements.<sup>32</sup> It is worth noting at this juncture that the WGEA and the Fair Work Ombudsman have, in fact, already prepared and published a range of resources to help employees and employers implement flexible workplace arrangements. At the same time, there may be scope for the WGEA and the Fair Work Ombudsman to improve the resources available to small businesses in this regard.

### ***Committee View***

4.33 Increasing women's workforce participation is critical for the economy as well as gender equity. Flexible working arrangements assist parents and carers, who are predominantly women, as well as older workers to re-enter or remain in the paid workforce. The committee supports the work of the WGEA in promoting flexible

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30 Mrs Andrea Slattery, Managing Director/Chief Executive Officer, SMSF Association, *Committee Hansard*, 12 February 2016, p. 11.

31 Ms Yolanda Beattie, Principle and Practice Leader, Diversity and Inclusion, Mercer, *Committee Hansard*, 18 February 2016, p. 32.

32 Mrs Andrea Slattery, Managing Director/Chief Executive Officer, SMSF Association, *Committee Hansard*, 12 February 2016, p. 11.



work strategies for employers. Evidence presented to the committee suggests that further work is necessary to develop greater awareness among both employers and employees regarding employee rights to access flexible work arrangements, as well as management strategies to enable career progression and development opportunities for part-time workers.

4.34 Further, while noting the increased difficulty that smaller employers have in offering flexible conditions, the committee considers that calls to strengthen the 'right to request' provisions in the Fair Work Act have merit. The committee recognises that implementation of such a measure would require careful consultation with employers and employee representatives to ensure workable arrangements are established.

#### **Recommendation 4**

**4.35 The committee recommends that the Australian Government consult with stakeholders on practical options to implement the relevant findings from the Australian Human Rights Commission's *Supporting Working Parents: Pregnancy and Return to Work National Review*, which recommends strengthening the 'right to request' provisions under s 65 of the *Fair Work Act 2009* by:**

- **removing the qualification requirements in section 65(2)(a) of the Fair Work Act (that is, the requirements for 12 months continuous service);**
- **introducing a positive duty on employers to reasonably accommodate a request for flexible working arrangements; and**
- **establishing a procedural appeals process through the Fair Work Commission for decisions related to the right to request flexible working arrangements to ensure processes set out in the Fair Work Act have been complied with.**

#### **Tax transfer system and workforce participation**

4.36 The OECD released a report on 12 April 2016 examining the effects of tax and benefit systems, including tax and benefit provisions targeted at children, on the incentives for second earners to enter (or re-enter) the workforce in OECD countries. The report outlined the effect of family-based taxation on second earners. It stated:

Family-based taxation has been adopted by a number of countries for equity purposes as it ensures that families with the same total income pay the same total income tax—irrespective of who earned the income. However, in such a system a second earner is effectively taxed at higher marginal tax rates than a single individual would be. Similarly, the withdrawal of tax allowances and credits on the basis of family income and the presence of dependent spouse allowances (which are both strongly justifiable on equity grounds) can act to reduce second earner participation incentives.<sup>33</sup>

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33 OECD, *Taxing Wages 2016—Special feature: Measuring the tax wedge on second earners*, 12 April 2016, p. 32, <http://www.oecd.org/ctp/tax-policy/taxing-wages-20725124.htm> (accessed 13 April 2016).

4.37 The OECD's findings were reflected in the views presented by witnesses to the committee. Professor Miranda Stewart noted that the 'combined effective marginal tax rate on women, as a result of taxes on work combined with withdrawal of family benefits and childcare support, is a substantial disincentive to work'.<sup>34</sup>

4.38 The Grattan Institute indicated that the high effective marginal tax rates experienced by second-income earners is linked to comparatively low female workforce participation in Australia.<sup>35</sup>

4.39 The Australian Institute of Superannuation Trustees (AIST) observed that Canada has significantly increased its women's workforce participation rates by reducing the effective marginal tax rate for second earners. The workforce participation gap for Canadian women is approximately 86 per cent of men's compared with 82 per cent in Australia.<sup>36</sup>

4.40 WiSER (Women in Social Economic Research) from Curtin University pointed to an apparent contradiction between, on the one hand, the provision of tax subsidies to encourage retirement savings, and, on the other, income tax and Family Tax Benefit policy settings that reduce financial incentives for second earners in families with children to engage in paid work. It explained:

...whilst the individual is ostensibly the formal unit of assessment in Australia's income tax system, Family Tax Benefits Parts A and B shift the tax-transfer system towards a family unit based system. The tax benefits impose very high effective marginal tax rates on second earners (most commonly women) in households. Part A is means tested and withdrawn at rates of 30 per cent and an additional 20 per cent if the family qualifies. When added to the marginal tax rate, these withdrawals can cause a second earner to lose 80–90 per cent of gross earnings on returning to work, and this is before childcare costs are met.<sup>37</sup>

4.41 Dr Helen Hodgson, National Foundation for Australian Women (NFAW), observed that second earners who are returning to work part-time are most affected, as the interplay between income tax, the family tax benefit and cost of childcare may result in second-earners losing more than they earn.<sup>38</sup>

### ***Committee view***

4.42 The committee considers that further investigation is necessary to examine the way in which income tax, the Family Tax Benefits and the cost of child care combine

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34 Professor Miranda Stewart, Tax and Transfer Policy Institute, Australian National University, *Submission 78*, p. 6.

35 Grattan Institute, *Submission 87*, p. 6. See also BPW Coffs Harbour, *Submission 34*, p. 2.

36 Australian Institute of Superannuation Trustees, *Submission 45*, p. 14.

37 WiSER, Curtin University, *Submission 6*, p. 8.

38 Dr Helen Hodgson, Member, Social Policy Committee, National Foundation for Australian Women, *Committee Hansard*, 19 November 2015, p. 40.

to provide a disincentive for second income earners to participate in paid work and to identify mechanisms to ameliorate such disincentives.

## **Recommendation 5**

**4.43 The committee recommends that the Australian Government refer the question of effective marginal tax rates for second-earners to the Productivity Commission for review, noting the significance of women's workforce participation.**

### **Access to affordable childcare**

4.44 The Productivity Commission's 2014 report on childcare and early childhood learning found that women's workforce participation could be increased through access to affordable childcare. Child care costs, particularly for women returning to work part-time, may serve as a disincentive to return to the workforce.<sup>39</sup>

4.45 One witness noted the International Monetary Fund 2013 report, *Women, work, and the economy: macroeconomic gains from gender equity*, which found that:

...where childcare costs go down by 50 per cent, the women's workforce participation rate can increase by up to 10 per cent. They also find that in OECD countries where greater percentages of GDP are spent on child care and education for under fives there are also greater female workforce participation rates.<sup>40</sup>

4.46 The ACTU argued that the provision of universal access to quality, affordable early childhood education and care (ECEC) was one of the most significant changes that could be made to support women's workforce participation and bolster women's retirement incomes.<sup>41</sup>

4.47 National Seniors Australia pointed to international examples where accessible childcare has positively affected women's workforce participation. It noted:

In countries where the cost of childcare is low and heavily subsidised, there is a correspondingly high uptake of childcare. In Denmark, for example, where there is a high proportion of children in childcare, mothers do not report childcare price as being reasons for not working or working only part-time. In Australia, where the proportion of children in care is much lower, there are constant complaints that the cost is too high and the availability of childcare is low.<sup>42</sup>

4.48 Submissions included a number of proposals to improve access to quality affordable childcare. These included:

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<sup>39</sup> Productivity Commission, *Childcare and Early Childhood Learning: Inquiry Report Overview and Recommendations*, No. 73, 31 October 2014, p. 53.

<sup>40</sup> Ms Karen Volpato, Senior Policy Advisor, Australian Institute of Superannuation Trustees, *Committee Hansard*, 6 October 2016, p. 46.

<sup>41</sup> Australian Council of Trade Unions, *Submission 69*, p. 13.

<sup>42</sup> National Seniors Australia, *Submission 62*, p. 20.

- reviewing current fringe benefits tax legislation and revising it to allow organisations to provide more cost-effectively subsidised childcare, healthcare and aged parent care assistance as employee benefits;<sup>43</sup> and
- adjusting means testing to achieve a progressive scale of the proportion of household disposable income spent on childcare costs.<sup>44</sup>

4.49 To demonstrate the link between affordable childcare and increased workforce participation, Mrs Sandra Buckley, Women in Super, drew on the Canadian experience, noting that Canada is often seen as culturally similar to Australia. She stated:

In the eighties, I believe Canada introduced a large subsidy program for child care. They did not necessarily make it extremely mean. There was tapering but, essentially, if you wanted access to child care, you got access to substantially reduced [costs of] child care. Sometimes it was as low as \$5 a day. Within 10 years, the female workforce participation rate had increased to 80 per cent, so there was a direct lineal transaction, if you like. I guess the point is that there are a lot of structural barriers.<sup>45</sup>

4.50 The Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015 is currently before the Parliament. The Bill forms part of the government's Jobs for Families Child Care Package, which as a whole is a response to the Productivity Commission's report on childcare and early childhood learning. The Bill proposes to introduce the Child Care Subsidy which will replace the Child Care Benefit and Child Care Rebate with a single, means tested subsidy.<sup>46</sup>

4.51 The St Vincent De Paul Society expressed concerns that the government's current proposal may disadvantage low-income women if access to childcare is made contingent upon participation requirements.<sup>47</sup>

4.52 The ACTU welcomed the government's commitment to increase funding for the early education and child care sector from 1 July 2017. However, in its view, 'public investment continues to fall short of levels needed to enable families to access ECEC services and fully participate in the workforce'. The ACTU stated:

Australia has one of the lowest expenditures on early childhood education and care of all OECD countries spending 0.45% of GDP compared to the OECD average of 0.6%.

The fact that the families package is contingent on proposed cuts to family tax benefits is highly inequitable and is likely to push low-income women

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43 Mercer, *Submission 22*, p. 5.

44 Women's Health Goulburn North East and Women's Health in the North, *Submission 5*, p. xii.

45 Mrs Sandra Buckley, Executive Officer, Women In Super, *Committee Hansard*, 6 October 2015, p. 21.

46 Senate Education and Employment Legislation Committee, *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015*, 4 April 2016, p. 3.

47 St Vincent de Paul Society, *Submission 17*, p. 5.

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with dependent children into poverty thereby eliminating any possibility of saving for their retirement.<sup>48</sup>

4.53 The Women and Work Research Group observed that it was unclear how proposed changes to the childcare package would affect female labour force engagement, especially as they are linked to cuts to family tax benefits.<sup>49</sup>

*Recognition for grandparents providing childcare*

4.54 National Seniors Australia noted the high number of grandparents providing childcare and proposed consideration of a scheme to provide some remuneration to grandparents. At the moment they can receive 69c per hour for looking after a non-school-aged child. Dr Radford remarked that 'it is the equivalent of \$34.80 for 50 hours of work, which is quite horrendous, really'.<sup>50</sup> National Seniors Australia noted:

As a recent National Seniors report has shown, grandmothers already provide a significant amount of informal childcare in Australia. Many grandmothers are already sacrificing their own incomes so that daughters and daughters-in-law can return to the workforce. Many of these women are also carrying the burden of care for elderly dependents at the expense of their own financial security.<sup>51</sup>

***Committee view***

4.55 The Productivity Commission, international experiences and evidence before the committee highlight the significance of access to affordable child care in promoting women's workforce participation. The committee considers that access to affordable childcare, now and in the future, is one of the factors that will contribute to improving women's economic security in retirement through increased workforce participation.

**Paid parental leave**

4.56 Many submissions drew attention to the importance of paid parental leave for women's workforce participation.<sup>52</sup> All employees in Australia are entitled to Paid Parental Leave (PPL), subject to meeting certain requirements:

Employees can receive parental leave pay from the Australian Government (18 weeks at the minimum wage) and paid parental leave from their employer. Not all employers offer paid parental leave, however those employees who get paid parental leave from their employer are also entitled

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48 Australian Council of Trade Unions, *Submission 69*, p. 13.

49 Women and Work Research Group, *Submission 76*, p. 6.

50 Dr Brendon Radford, Senior Policy Advisor, National Seniors Australia, *Committee Hansard*, 19 February 2016, p. 9.

51 National Seniors Australia, *Submission 62*, p. 24.

52 See for example, Professor Miranda Stewart, Tax and Transfer Policy Institute, Australian National University, *Submission 78*, p. 6; Women and Work Research Group, *Submission 76*, p. 7.

to the Australian Government's Paid Parental Leave. Employees whose employers do not provide paid parental leave are still entitled by law to parental leave.<sup>53</sup>

4.57 The government has proposed changes to PPL to prevent employees with access to employer-provided parental leave from accessing the government's PPL scheme (so-called 'double dipping'). The changes, which are contained in the Fairer Paid Parental Leave Bill 2015, are summarised in the explanatory memorandum to the bill:

Currently, eligible primary carers can receive employer-provided paid maternity leave and Government-funded Parental Leave Pay. Under the amendment to the Paid Parental Leave scheme, primary carers will no longer receive both their employer provided paid maternity leave and the full 18 weeks of Government-funded Parental Leave Pay.

Eligible mothers without access to employer-provided paid maternity leave will continue to be eligible for the full 18 weeks of Parental Leave Pay at the rate of the national minimum wage, and mothers who receive less than the total value of Government-funded Parental Leave Pay from their employer will be entitled to the residual amount from the Government.<sup>54</sup>

4.58 Many submissions raised concerns about changes to PPL which have been proposed by the government.<sup>55</sup> For example, the Women and Work Research Group expressed concern about the effect of any proposed cuts to the PPL scheme, especially as the current scheme has been shown to encourage women's workforce retention.<sup>56</sup>

4.59 The Police Federation of Australia calculated that its members would be \$11,500 worse off under the proposed changes to the PPL. It reasoned that the proposed changes will likely reduce the amount of time on parental leave for some of its members, while for others it may result in a separation from the workforce completely.<sup>57</sup>

4.60 The Financial Services Council noted that the government's original PPL policy was to implement a parental leave scheme that would have provided mothers with 26 weeks of paid parental leave at their actual wage or the national minimum wage (whichever is greater), plus superannuation (superannuation contributions for PPL are discussed in chapter 5). While the Financial Services Council supported the scheme, it acknowledged the government's argument that the proposed scheme is currently unaffordable due to the Commonwealth's fiscal position.<sup>58</sup>

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53 Industry Super Australia, *Submission 74*, p. 31.

54 Explanatory Memorandum, Fairer Paid Parental Leave Bill 2015, p. 1.

55 See for example: Women and Work Research Group, *Submission 76*, p. 7; Finance Sector Union, *Submission 29*, p. 5; Unions NSW, *Submission 67*, p. 8.

56 Women and Work Research Group, *Submission 76*, p. 7. See also Finance Sector Union, *Submission 29*, p. 5.

57 Police Federation of Australia, *Submission 52*, p. 3.

58 Financial Services Council, *Submission 57*, p. 3.

4.61 The ACTU argued that the 18 weeks available leave on the PPL is significantly shorter than the period of paid leave available in other OECD countries which have similar social, demographic and economic circumstances. For example, Canada provides 35 weeks paid leave, the UK provides 39 weeks and Sweden provides 60 weeks. It also noted that Australia is one of only two OECD countries that does not pay leave based on a replacement wage. As such, the ACTU recommended that the minimum period of paid parental leave should be 26 weeks at no less than the national minimum wage.<sup>59</sup> Unions NSW also recommended that PPL should be extended to 26 week, but in its view PPL should provide full wage replacement.<sup>60</sup> The ACTU and Unions NSW support for 26 weeks PPL is in line with recommendations by the World Health Organisation.<sup>61</sup>

### *Committee view*

4.62 The committee notes that the Hon Christian Porter, Social Services Minister, recently announced that proposed changes to the PPL contained in the Fairer Paid Parental Leave Bill 2015 were unlikely to be passed in the current Parliament. However, the government indicated that it was committed to making the changes if re-elected.<sup>62</sup> The committee considers that any proposed changes to the PPL should be assessed in terms of workforce participation and retention. The committee sees significant benefits in providing 26 weeks paid parental leave through a combination of government and employer funding.

### **Recommendation 6**

**4.63 The committee recommends that the Commonwealth Paid Parental Leave Scheme continue to be improved over time to allow for 26 weeks paid parental leave through the combination of government and employer funding.**

### *Sharing caring responsibilities*

4.64 Inkling Women argued that parental leave, rather than maternity leave, must become the norm. It noted:

For both men and women to accommodate a more equitable balance of work and familial/caring responsibilities, greater flexibility is required in workplaces. It is essential that parental leave is parental, with equivalent respect and acceptance for men temporarily stepping away from the

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59 Australian Council of Trade Unions, *Submission 69*, pp. 14–15.

60 Unions NSW, *Submission 67*, p. 5.

61 Australian Parliamentary Library, *Bill Digest No. 12, 2015–16: Fairer Paid Parental Leave Bill 2015*, 19 August 2015, p. 8, [http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/bd/bd1516a/16bd012](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd1516a/16bd012) (accessed 15 April 2016).

62 Judith Ireland, 'Expectant mothers given short-term reprieve', *Sydney Morning Herald*, 6 April 2016.

workplace as for women. Parental leave must be as available, generous and accepted for men as it is for women.<sup>63</sup>

4.65 National Seniors noted that the current leave arrangements for fathers is only two weeks.<sup>64</sup> It suggested that while the shift from maternal to parental leave makes it possible in theory for either parent to take on caring activities, it is more often the case that women take the leave rather than men—this has been the case in Sweden and Denmark. National Seniors noted:

International evidence has shown that leave entitlements for fathers need to be of an adequate duration, well paid at a rate of between 60 to 80 per cent of average wages, dedicated to men on a 'use it or lose it' basis and unable to be taken at the same time as a spouse in order to be most effective.

Norway, Sweden and Finland provide men with generous leave entitlements that are both long in duration and high in amount. Norway, in particular, has had great success with its paternal leave system, which provides 14 weeks of dedicated leave to fathers paid at 90.8 per cent of average income. In contrast the Netherlands provide men with leave at only very low level of income which discourages uptake.

One of the key aspects of the Norwegian scheme is that men cannot take the leave at the same time as the spouse. As a result of this there has been a relatively high take up of father-specific leave in Norway providing women with an opportunity to reenter the workforce while their male spouse undertakes care duties.<sup>65</sup>

4.66 Dr Helen Hodgson, NFAW, observed that women's workforce participation, in particular full-time employment, is unlikely to increase unless there is a cultural shift, with men taking on a greater share of unpaid work. She stated:

There is this issue around balancing unpaid work in the home and caring responsibilities with paid work. I think Australian women have reached a point where I am not sure that there will be much more growth there until there is better support for the unpaid work at home. That involves the child care. That involves changing gender distribution of household work. I do not research in that area myself, but I have heard a lot of the research around that. It is a combination of a cultural and attitudinal shift within the household and real support that will pick up some of those responsibilities outside the household that will allow women to then take on that extra day a

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63 Inkling Women, *Submission 38*, p. 6.

64 Dad and Partner Pay is available to working fathers and partners. On eligibility, see Department of Human Services, 'Eligibility for Dad and Partner Pay', <https://www.humanservices.gov.au/customer/enablers/eligibility-dad-and-partner-pay> (accessed 27 April 2016).

65 National Seniors Australia, *Submission 62*, pp. 18–19. See also, The Hon Susan Ryan AO, Age and Disability Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 12 February 2016, p. 5.



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week of work. I know this is a significant factor in the work that the Productivity Commission has been doing in the childcare review.<sup>66</sup>

4.67 In order to encourage sharing of caring duties, workplace discrimination also needs to be addressed for fathers and partners. In a 2014 report, the Australian Human Rights Commission found that over a quarter of fathers and partners reported experiencing discrimination relating to parental leave and return to work.<sup>67</sup>

### **Older women and carers**

4.68 The Age and Disability Discrimination Commissioner highlighted the importance of workforce participation for older women. She stated:

My own view is that boosting the participation rates and making it possible for older women to maintain employment is the strongest change we can make in terms of enabling those women to save more, to have more savings for retirement, and also to have better health when they go into retirement. Australia is about the middle. I would not say that we could find another country that has a model retirement savings scheme. As senators will be aware, the Australian compulsory mandated superannuation guarantee sees us as world's best. So we are looking at the other factors. As I said, Australia could be at the top of the OECD in workforce participation, there is nothing intrinsic to the Australian economy that would not permit that, and yet we are only kind of around the middle.<sup>68</sup>

4.69 ACOSS explained that the main barrier to increasing workforce participation among older people is the labour market failing to adapt to the aging workforce. It explained:

Age discrimination is rife. Neither employers nor mature age workers invest sufficiently in updating their skills. Older workers and their employers have not adapted well to structural changes in the labour market, especially the decline of manual jobs.<sup>69</sup>

4.70 The NSW Council of Social Service (NCOSS) noted that access to education and training over the lifecycle is a key factor for women, influencing paid workforce participation and lifetime earnings. NCOSS supported funding for outreach courses for women re-entering the workforce, particularly after periods of care or establishing economic independence after a separation.<sup>70</sup>

4.71 Dr Brendon Radford, National Seniors, explained that in order to ensure mature age workers remain attached to the workforce:

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66 Dr Helen Hodgson, Member, Social Policy Committee, National Foundation for Australian Women, *Committee Hansard*, 19 November 2015, p. 41.

67 Australian Human Right Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review—Report*, 2014, p. 8.

68 The Hon Susan Ryan AO, Age and Disability Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 12 February 2016, p. 6.

69 Australian Council of Social Service, *Submission 61—Attachment 1*, p. 22.

70 NSW Council of Social Service (NCOSS), *Submission 68*, p. 13.

...we need to focus on people before they become unemployed, because this is a group of people who are at most risk. They are very vulnerable to being long-term unemployed or unemployed as they age. We need to find a way to target them and give them opportunities to career plan, link them up with skills and retrain them before they become unemployed, because it might keep them in the job that they are in or, if they do actually become unemployed, give them a head start. We have had a paper come out recently that says that people in later life do not perform career planning. This is something that really needs to happen, because they end up unemployed and they do not know what to do.<sup>71</sup>

4.72 The National Australia Bank supported the provision of tax incentives for employers to engage older workers.<sup>72</sup> Ms Susan McGrath, COTA Australia, argued that labour market programs such as Restart, a program that provides a wage subsidy to businesses that employ workers 50 years or older,<sup>73</sup> should begin immediately after a mature age worker becomes unemployed. She stated:

That period is critical if somebody is not supported instantly, given the combination of factors they face around age discrimination. It is absolutely crucial that they are moved immediately in and that there is a well-organised level of support to get them back into work. We feel that much more can be made of labour market programs like Restart. They can be much more tightly targeted around specific labour markets. Much more work can be done in that space.<sup>74</sup>

4.73 Mr Ian Yates, COTA Australia, observed that there is a risk that some older people, aged 55 to 65, who become unemployed may rely on superannuation savings rather than unemployment benefits. He stated:

So you get a compound of the effect of loss of income, drawing down of other assets and then drawing down of super, which means that they then approach retirement or the age pension age having exhausted, essentially, the buffers that they intended to have.<sup>75</sup>

4.74 Professor Miranda Stewart argued that the Age Pension assets test creates a disincentive to work and save. She stated:

The age pension means test (which is an income test and an alternative asset test) creates perverse disincentives both to work in mature age and to save earlier during the lifecycle. These disincentives affect both men and

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71 Dr Brendon Radford, Senior Policy Advisor, National Seniors, *Committee Hansard*, 19 February 2016, p. 4.

72 National Australia Bank, *Submission 63*, p. 3.

73 Department of Employment, 'Restart—help to employer mature age workers', <https://www.employment.gov.au/restart-help-employ-mature-workers-0> (accessed 4 April 2016)

74 Ms Susan McGrath, National Policy Manager, COTA Australia, *Committee Hansard*, 19 February 2016, p. 4.

75 Mr Ian Yates, Chief Executive, COTA Australia, *Committee Hansard*, 19 February 2016, p. 5.

women on the age pension, although they do not affect the top 20 per cent who do not receive the age pension. Encouragement to do paid work in retirement may be of particular importance for women who have long life expectancies.<sup>76</sup>

4.75 Mr Yates explained that New Zealand has a significantly higher mature age workforce participation rate than Australia.<sup>77</sup> Professor Stewart similarly informed the committee that New Zealand has significantly higher workforce participation rates among mature-aged workers aged between 55 and 69 than Australia. She explained:

Labour force participation among men aged 65 to 69 is 33 per cent in Australia but is 15 percentage points higher in NZ, at 47 per cent. Among women the corresponding figures are 20 per cent in Australia and 34 per cent in NZ, a difference of 14 percentage points. The Australian figures are very close to the OECD averages, but the NZ figures show there is considerable room for increase.<sup>78</sup>

4.76 In New Zealand, the only criterion for the public age pension is age (65 years); unlike Australia, the New Zealand pension is not means tested. Instead:

New Zealand has a relatively high universal basic pension which is taxed 'from the first dollar' in the personal income tax, so that a net pension is paid. The NZ universal pension is taxed at a marginal tax rate of 10.5 per cent or 17.5 per cent.<sup>79</sup>

4.77 Professor Stewart noted that it seems likely that the higher rates of mature age workforce participation in New Zealand are the result of its pension system model.<sup>80</sup>

### ***Carer payment 25-hour rule***

4.78 Carers Australia highlighted the fact that the current '25 hour rule' for Carer Payment recipients restricts their capacity to remain engaged with the workforce while caring.<sup>81</sup> Paid employment or unpaid voluntary work does not affect the carer's qualification for the Carer Payment, except when the cessation of care to undertake the paid employment or voluntary work (including the carer's travel time) exceeds 25 hours per week.<sup>82</sup> Carers Australia argued for a more flexible approach where

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76 Professor Miranda Stewart, Tax and Transfer Policy Institute, Australian National University, *Submission 78*, p. 7.

77 Mr Ian Yates, Chief Executive, COTA Australia, *Committee Hansard*, 19 February 2016, p. 7.

78 Professor Miranda Stewart, Tax and Transfer Policy Institute, Australian National University, *Submission 78—Attachment 1*, p. 12.

79 Professor Miranda Stewart, Tax and Transfer Policy Institute, Australian National University, *Submission 78—Attachment 1*, p. 11.

80 Professor Miranda Stewart, Tax and Transfer Policy Institute, Australian National University, *Submission 78—Attachment 1*, pp. 11–12.

81 Carers Australia, *Submission 39*, p. 6.

82 Department of Social Security, '3.6.4.70 Changes to Carer Situation—Effect on CP Qualification Guide to Social Security Law Version 1.220', <http://guides.dss.gov.au/guide-social-security-law/3/6/4/70> (accessed 4 April 2016).

carers could engage in employment, education and training under certain circumstances. Ms Anna Morrison, Carers Australia, explained:

The advantage of that is either that you keep your toe in the water, if it is about maintaining some attachment to the workforce, or for someone that has been caring for 10 or 15 years and has been on carer payment it is an opportunity to start thinking: 'Right, what's going to happen when all of this ends and I am back on Newstart allowance? How can I start to get myself job ready? How can I update my skills? Can I get any work experience?'<sup>83</sup>

*Committee view*

4.79 The committee considers that increasing older women's workforce participation will improve the financial circumstances of many women approaching retirement, enabling them to continue saving. The committee considers that programs such as Restart should be reviewed to ensure they are providing the most effective assistance to mature workers. The committee sees significant benefit in further investigation of the way in which means testing of the Age Pension may act as a disincentive to mature age workforce participation.

**Recommendation 7**

**4.80 The committee recommends the Australian Government investigate further the interaction between means testing of the Age Pension and mature age workforce participation.**

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83 Ms Anna Morrison, Senior Policy Officer, Carers Australia, *Committee Hansard*, 19 February 2016, p. 17.