

It's About Time

Women, men, work and family

FINAL PAPER 2007



Human Rights and Equal
Opportunity Commission
humanrights.gov.au

It's About Time: Women, men, work and family

Final Paper 2007



*Human Rights and
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Cover artwork
Echoes of Nation, Fatima Killeen ©

Cover design and layout
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Printer
Bloxxham and Chambers Printers

Abbreviations and Acronyms

ABS	Australian Bureau of Statistics
ACCI	Australian Chamber of Commerce and Industry
AFPC	Australian Fair Pay Commission
AIFS	Australian Institute of Family Studies
AiG	Australian Industry Group
AIHW	Australian Institute of Health and Welfare
AIRC	Australian Industrial Relations Commission
AMEP	Adult Migrant English Program
ATO	Australian Tax Office
AWA	Australian Workplace Agreement
BCA	Business Council of Australia
CALD	Culturally and linguistically diverse
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COAG	Council of Australian Governments
COTA	Council on the Ageing
CCB	Child Care Benefit
CCQA	Child Care Quality Assurance
CRC	Convention on the Rights of the Child
CSTDA	Commonwealth State Territory Disability Agreement
DEWR	Department of Employment and Workplace Relations
DSP	Disability Support Pension
ECEC	Early Childhood Education and Care
EITC	Earned Income Tax Credit
EMTR	Effective Marginal Tax Rate
EOWA	Equal Opportunity for Women in the Workplace Agency
FaCSIA	Department of Family, Community Services and Indigenous Affairs
FAO	Family Assistance Office
FBT	Fringe Benefits Tax
FIFO	Fly-in, Fly-out
FTB	Family Tax Benefit
FTB (A)	Family Tax Benefit Part A
FTB (B)	Family Tax Benefit Part B
HACC	Home and Community Care
HILDA	The Household, Income and Labour Dynamics in Australia Survey
HREOC	Human Rights and Equal Opportunity Commission
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IPSP	Inclusion Professional Support Program

ISS	Inclusion Support Subsidy
JET	Jobs, Education, Training
MIPAA	Madrid International Plan of Action on Ageing
NATSEM	National Centre for Social and Economic Modelling
NCAC	National Childcare Accreditation Council
NCJWA	National Council of Jewish Women of Australia
NGO	Non-Government Organisation
OEA	Office of the Employment Advocate
OECD	Organisation for Economic Co-operation and Development
PAYE	Pay As You Earn
SPRC	Social Policy Research Centre
SNSS	Special Needs Subsidy Scheme
ToCC	Taskforce on Care Costs
UNICEF	United Nations Children's Fund

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Foreword

This paper is about one of the biggest challenges facing Australia in the 21st century: balancing paid work and family responsibilities. It's about how we live today, and how we want to live tomorrow. It's about valuing care, valuing families, and valuing happiness.

It's about giving men and women the *choices* they need to balance their competing responsibilities.

At the heart of this paper is the issue of time. In a period of unprecedented prosperity, many Australians feel time poor. Despite over a decade of economic growth many Australians are not living the lives they want.

The Human Rights and Equal Opportunity Commission (HREOC) has heard stories of men and women frustrated and disheartened by the struggle to combine paid work and care. These stories are not just about the problems facing parents, but the problems facing those caring for older people and people with disability.

What we heard from the Australian community was a call for support. Support for men and women with family and carer responsibilities. Support for family-friendly workplaces. Support for early childhood education and care. And support for a society which values shared work and shared care.

Too often, balancing work and family is pigeonholed as a women's issue. It's not. While women continue to carry the disproportionate burden of family and carer responsibilities, many men are expressing an increasing desire to have a greater involvement in the lives of their children.

Yet workplace, financial and cultural pressures still put the onus on men to be primary breadwinners and women to be the primary carers. The fundamental human rights principles of equality and non-discrimination should be recognised in all families and workplaces. But while Australians accept the ideal of equality in paid work and family responsibilities, many Australian families do not have the opportunity to make this ideal a reality.

The unequal division of care needs to change. On a personal level, relationships, children, health and happiness can all be the casualties of failing to strike the right balance between paid work and family life.

Governments, workplaces, communities and families and individual men and women all have a part to play in creating a fairer balance between paid work and family responsibilities.

This is not just a matter of personal happiness; it's a matter of economic and social wellbeing. Creating a society which values care is vital to meet the needs of ageing population, while workplaces which are hostile to families have serious implications for the economy in terms of workforce participation and productivity.

Addressing these issues is a big challenge and this paper has big, broad reaching recommendations. This is not a time for tinkering at the edges of the problem. To strike the balance we need structural changes in the workplace to support gender and carer equality. We need cultural change.

The most basic family value is valuing families. Helping families make time to be a family by sharing work and care is not only in the best interests of parents, it's in the best interests of children. Both men and women need access to family-friendly employment provisions like flexible working hours, parental leave and carer's leave. We need to create a culture of shared work and valued care.

This report sets out a framework for reform which faces up to the realities of modern Australian family life. This framework:

- recognises that family and carer responsibilities changes across the life cycle;
- promotes equality by making sharing work and care a real option for Australian families; and
- creates a legal and social environment that values care and protects the rights of workers with family and carer responsibilities.

Our economic good health gives us a unique opportunity to address our social health by addressing the unfair distribution of paid work and family and carer responsibilities identified by HREOC's 2005 Discussion Paper *Striking the Balance: Women, men, work and family*.

This final paper is the springboard for meeting this challenge. By setting out a framework for future reform, this paper carries the hopes of many people. I would like to thank the men and women who came to our community consultations and spoke, honestly and openly, about the personal cost of time pressures, and of their desire to spend more time with kids, families, and friends. Thank you also to everyone who wrote with their stories, ideas, and suggestions for change.

Finally, I would like to thank Ms Pru Goward. Every project has a visionary, a person who has an idea, gives it legs, and most importantly, makes it run. The women, men, work and family project's visionary is Pru Goward who, in her role as Sex Discrimination Commissioner and with the excellent support of HREOC's Sex and Age Discrimination Unit, not only got this project off the ground but got Australia talking.

This paper continues this crucial conversation about how to strike the balance between paid work and family responsibilities. But this paper is not simply a talking point; it's a template for action. In 2007, it's about time.

The Hon John von Doussa QC
President
Acting Sex Discrimination Commissioner and
Commissioner responsible for Age Discrimination

Executive Summary

Chapter 1: Background

Striking the balance between paid work and family in Australia has become more than a “BBQ stopper” – it is *the* topic of the 21st Century for families, employers and governments.

To examine the way in which Australian men and women balance their paid work and family and carer responsibilities, the Human Rights and Equal Opportunity Commission (HREOC) released the discussion paper *Striking the Balance: Women, men, work and family* in June 2005. This paper built on previous Commission work on sex discrimination and gender equality in employment.

The paper aimed to broaden the “work and family debate” to better include men’s role in family life; to include forms of care other than child care (such as elder care and care for people with disability); and to highlight the relationship between paid work and unpaid work.

It stirred up considerable public debate and generated significant media interest in this topic.

One hundred and eighty one submissions were received in response to the *Striking the Balance* discussion paper. In addition, 44 consultations and focus groups were held around Australia with employers, employer groups, employees, unions, men’s and women’s community groups, parents, carers and children.

This final paper, *It’s About Time: Women, men, work and family*, outlines a new approach to balancing paid work and family/carer responsibilities in Australia. Underpinned by human rights principles, this new approach proposes a series of changes to legislation, workplace policy and practice and government policies and programs.

Chapter 2: It’s about time

At the heart of efforts to “strike the balance” between paid work and family responsibilities is the issue of time. Despite a decade or more of economic growth and prosperity many Australians are not living the lives they want and feel pressured, stressed and overly constrained in the choices they can make, particularly at key points in their lives. Over the duration of this project, the Australian community has repeatedly told HREOC about time pressures, conflicting demands on time and a desire for more time to enjoy family and friends.

Successfully managing time is not only a result of individual choices; it is also a consequence of the support that exists within families and communities, government policy, workplace policies and practices and social attitudes. External support for families juggling paid work and care is patchy at best and counter productive at worst.

An important starting point to address this challenge is to develop a paid work and family/carer responsibilities framework which:

- allows for changes in caring needs and responsibilities across the life cycle;

- addresses equality between men and women; and
- reflects a “shared work – valued care” approach.

Increased paid work opportunities for women in the past 20 years have not produced a corresponding change in the division of unpaid responsibilities between men and women. Women with family/carer responsibilities carry a disproportionate share of unpaid work, including child care, elder care and associated housework, while men in full time paid work lack access to family life. For both men and women the imbalance of paid work and family/carer responsibilities has a direct impact on their life outcomes, including their social and economic status, participation in public life, health and emotional wellbeing.

A guiding principle for approaching paid work and care issues, across the life cycle and supporting equality between men and women, is what has been described as a “shared work – valued care” approach. This means sharing unpaid and paid work better across the labour market and the community as well as between individual men and women. It means sharing the work of caring between families, the community and public institutions. It requires governments to take a primary role in sharing the costs of care through the provision of accessible, affordable and high quality care and support services for both children and adults who need them. It also means valuing the caring work of employees, ensuring quality employment for those who provide care and sharing the responsibility for care between individuals and quality service providers.

While traditional economic goals such as productivity and prosperity are important, they are not enough in themselves to create social wellbeing. A truly prosperous society is one that values time as well as money, whether this is time spent with children or other relatives in leisure activities, time spent working voluntarily within community or time spent meeting day-to-day care needs.

Chapter 3: Legal protection for workers with family and carer responsibilities

At a federal level, the Australian Government has enacted laws that provide some protections for workers with family and carer responsibilities. These laws include the *Sex Discrimination Act 1984* (Cth) and the *Disability Discrimination Act 1992* (Cth). The States and Territories have also enacted laws which prohibit discrimination on the grounds of sex, parental status and family and carer responsibilities.

There are also a number of international human rights obligations relevant to workers with family and carer responsibilities, including the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) and the Convention (No 156) Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities (ILO 156).

Despite this, many men and women with family/carer responsibilities find themselves disadvantaged in the workplace when compared to workers without these responsibilities. This paper considers the existing legal protections for workers with family and carer responsibilities (focusing on federal discrimination law); the limitations of these laws; and the need for law reform to extend greater protection to these workers.

This paper outlines the limitations of the existing protections for workers with family/carer responsibilities and how these limitations would be most appropriately addressed through a separate specialised piece of legislation – a *Family Responsibilities and Carers’ Rights Act*. To include expanded family responsibilities protection in the Sex Discrimination Act may serve to entrench the idea that caring is women’s work – a separate Act would expressly encompass both men and women with family and carer responsibilities.

The new Act should define both direct and indirect discrimination on the ground of family and carer responsibilities, and proscribe such discrimination in all areas of employment. The Act should require HREOC to conduct relevant educative, research and policy work, and extend *amicus curiae* and intervention functions to a Commissioner. The Act should also include a right for workers to request flexible work arrangements due to family or carer responsibilities and to have the request reasonably considered by their employer. This means that employers must be able to demonstrate that they properly investigated whether such a request could be accommodated and reached a decision fairly on its merits. The right should encompass all forms of carer responsibilities and be available to men and women workers of all age.

While HREOC acknowledges that the “right to request” proposal imposes some additional obligations on employers, these obligations do not create any absolute employee rights and only require reasonable consideration.

This proposed legislation would provide men with a much improved regime to assist them in balancing their paid work and care responsibilities, and would be an important vehicle for overcoming long-standing stereotypes and promoting systemic change.

Chapter 4: Striking the balance in the workplace

While it is clear that the workplace is central to any discussion of balancing work and family, the relationship of the workplace to family life is inadequately acknowledged in public debate. Just as families rely on paid work for economic sustenance, workplaces rely on the unpaid work that takes place in families to sustain the labour force.

In response to questions posed in the *Striking the Balance* discussion paper, the following emerged as the key issues for addressing paid work and family and carer responsibilities in the workplace:

- improving recognition of the relationship between workplaces and the broader community, and specifically of the care arrangements that support the workplace;
- a mix of both certainty and flexibility in the conditions of work, adaptable for employees across the life course;
- the need for structural changes to support gender equality and equality for carers;
- expanded legal rights, specifically improved protection from discrimination, a right to paid maternity leave and a right to request flexible work arrangements; and
- the need for cultural change in workplaces to expand existing family-friendly provisions and drive further changes.

While there is no “one-size-fits-all” solution to paid work and family/carer responsibilities across the variety of industries, occupations and employers in Australia, the key issues need to be addressed by workplaces so that the balance between paid work and family life can improve.

Chapter 5: Striking the balance in the family

Australian women currently carry a much greater load of unpaid work in households, including child care, elder care and housework than men. The seemingly “private” decisions about arranging paid work and caring work are in fact shaped by the public context in which they are made: for example, the employment options available to families in particular communities, the availability of child and aged care, or the taxation implications of re-entering the paid workforce. While the majority of Australians believe in sharing parental care in particular, many feel unable to make this a reality.

Encouraging men to be involved in sharing care right from the beginning of children's lives is an important part of supporting shared care and moving towards equality. Families that have managed to realise their goal of sharing both paid work and care have been very positive about their experience. Supportive workplaces, father-friendly spaces and parenting services and positive social attitudes all contribute to making shared care a reality. Men who are heavily involved in caring and other unpaid responsibilities are well placed to be role models in the wider community and lead social change amongst their own networks.

Demographic changes such as low birth rates mean that in future many more people will not have family members living with them as they age. Providing support and care for people outside of one's home is likely to become a larger part of what we consider to be family and carer responsibilities. This also raises the need to consider care as a community responsibility, rather than simply that of individual households. This is particularly important for elder care, as many frail older people are choosing – and are increasingly encouraged – to remain in their own homes as they age.

Attitudes and behaviours towards caring, such as the perception that it is only women's responsibility, are often the result of unquestioned gender assumptions that become entrenched at an early age and need to be actively challenged if they are not to form artificial barriers to balancing work and family life. Education and awareness raising play a crucial role in supporting cultural change.

It is also important to incorporate men's role as carers into existing policy frameworks and initiatives. Part of this mainstreaming is the development of existing family services and programs so that they adequately address the needs of men as carers.

Chapter 6: Government support: Welfare and tax

The Australian welfare system helps support individuals and families to balance their caring responsibilities with their paid work. The taxation system works in concert with the welfare system to provide both incentives and disincentives for families making choices about work and care arrangements, and transitioning from one stage of the work/care life cycle to the next.

It is clear from HREOC's consultations that the welfare system needs to adhere to certain principles in order to provide adequately for workers with family responsibilities.

Firstly, the welfare system needs to work with and not against other forms of support for workers with family responsibilities. Second, the shared work – valued care approach should underpin the welfare system's response to paid work and family/carer responsibilities in order to maximise choice. Third, the system should support all types of families and carers combining paid work with caring and be flexible enough to meet changing needs for care support arising throughout the life course. Finally, the interaction between welfare payments and the tax system needs to be kept at the centre of policy development in these areas, particularly in terms of incentives and disincentives that may affect families' capacity to combine paid work and care.

Welfare responses and taxation arrangements need to be flexible enough to operate efficiently and helpfully for men and women located at different points along the life course, across differing family, socio-economic and other circumstances, as well as across different types of caring.

Australia's superannuation system was highlighted as an area that needs reform because of its lack of recognition of unpaid caring work. Currently it is women who are more likely to spend more time out of paid work due to caring responsibilities and as a result are more likely to retire with much lower levels of superannuation benefits and retirement savings than men. More work needs to be done in this area.

Chapter 7: Government support: early childhood and care

The provision of early childhood education and care (ECEC) is a central concern of Australian families. The provision of child care for infants, care for school aged children before and after school and during school holidays, and preschool education were most frequently raised by parents during HREOC's consultations.

Widespread endorsement of a national policy framework for early childhood would represent an important development for Australian children in an environment in which the provision of ECEC services has been historically fragmented with patchy availability and wide variations in affordability across States and Territories.

It is important that choices are available for families relying on both formal and informal care services. The more types of care available the more likely it is that families will find care that they regard as suitable for their children.

Governments need to take a life cycle approach which considers a range of caring needs and assists the diverse range of families, parents and other family carers to maintain an active attachment to the paid workforce.

The availability, affordability and flexibility of formal child care services were highlighted as critical issues for many families during the course of this project. These concerns all have a major impact on the balance between paid work and family.

It is essential that children's services are seen as an integrated part of national goals to promote the wellbeing of children and families.

Chapter 8: Government support: care for adults and support for carers

All Australians will be, at some point in their lives, the receivers of care, and the overwhelming majority will also be providers of care.

More than 2.6 million Australians provide informal care to a person who needs assistance due to disability, chronic illness or old age and almost half a million of these are primary carers. Women carers in particular are often providing care for both older and younger family members. Many carers are also combining paid work with their caring responsibilities.

Governments provide a range of support services aimed specifically at carers and support has increased significantly in recent years. However, this paper finds that support for working carers of older people and people with disability is a key area in which further funding, research and policy development is required.

A shared work – valued care approach must recognise the universal nature of the need for care and provide affordable and accessible support services that allow people with disability and older people to participate as fully as possible in their communities. This approach means valuing the work of paid carers by providing them with decent wages and employment conditions. It also means providing family carers with flexibility in their workplaces, ensuring that unpaid carers are financially supported so that their caring work does not leave them impoverished and providing practical support and resources for the diverse range of carers.

Chapter 9: Other issues

Decisions about how to combine paid work and family responsibilities are not only informed by pressures and supports within areas such as the workplace, public policies and formal and informal care arrangements. The planning and design of our cities and transport systems can directly affect both the quality and quantity of time available for unpaid work and caring responsibilities, and other important parts of life such as

engaging with friends, neighbours and community activities. Although the design of our built environment cannot create community, it can ensure that people have the places and the time to interact with their families and communities.

Long commuting times were consistently raised as factors affecting the balance of paid work and family life. For people in regional and remote areas, access to transport can be difficult. For people with disability, difficulties in combining paid work and care can be compounded by lack of access to and the high cost of transport. Elder care responsibilities can be harder to meet for adult children who have established their careers and their families a long way from their ageing parents.

Many public institutions, such as schools, rely on volunteer work to function effectively. Voluntary work, including various types of “caring” work within the community, also creates broader social capital from which families and communities benefit. The social benefits of strong community networks of support are often undervalued and overlooked.

A better balance of paid work and family/carer responsibilities among men and women must include a response to the need for neighbourhood wellbeing, including building local community capacity to care for its members.

Chapter 10: Conclusion

The Australian community has shared a plethora of stories about women, men, work and family over the course of this project. It is clear that many families are struggling to meet the time demands of current paid work and family/carer responsibilities. This challenge has wider implications for meeting future care needs, which are likely to increase as the population ages and people engage in paid work for longer periods.

Australian women, men and children clearly indicated that they value care: for children, for older people and for people with disability. They also expressed the need for genuine flexibility within workplaces to support employees balancing their paid work and their family/carer responsibilities.

The costs of not meeting this challenge are immense: for individuals who shift to poorer quality paid work in order to meet their dual responsibilities, or drop out of the workforce altogether; for employers, particularly in industries with skills shortages; and of chief importance, for the economy as a whole in terms of workforce participation and productivity.

This paper sets out a new framework for meeting paid work and family/carer responsibilities in Australia by addressing three central challenges: changes in caring needs and responsibilities across the life cycle; equality between men and women in paid and unpaid work; and valuing care. A shared work – valued care approach forms a key part of this framework.

Making this new framework a reality requires commitment from governments, employers, communities and families and individuals themselves, because in the end, striking the balance between paid work and family/carer responsibilities is a shared responsibility.

It's about time these issues were given the national attention they require.

Recommendations

CHAPTER 1: Background

Recommendation 1:

That the Australian Bureau of Statistics be funded to produce a full national time use survey at regular five-yearly intervals to help inform and measure progress towards gender equality in paid and unpaid work.

Recommendation 2:

That the Australian Bureau of Statistics be funded to develop a set of questions on experiences of child care, elder care and care for people with disability for distribution either in appropriate regular national surveys of households, or a new specialist survey, in order to collect comparable data on the range of informal and formal care provided within Australia.

Recommendation 3:

That the Department of Employment and Workplace Relations establish a national workplace relations survey to be carried out and published annually to monitor gender differences in changes in wages and employment conditions within the new workplace relations regulatory framework. This survey should be developed in consultation with key stakeholders including State and Territory governments, employers and unions and collect data about the diverse range of employees and employers including by disability, ethnicity and Indigenous status.

CHAPTER 3: Legal protection for workers with family and carer responsibilities

Recommendation 4:

That a federal *Family Responsibilities and Carers' Rights Act* be introduced to provide protection from discrimination for employees with family and carer responsibilities and a right to request flexible work arrangements.

Recommendation 5:

That the Australian Government fund HREOC to establish a Family Responsibilities and Carers' Rights Unit to promote the principles of the new legislation, undertake educational and promotional activities, and contribute to policy and legislative development in the area of family responsibilities discrimination and carers' rights.

Recommendation 6:

That the Family Responsibilities and Carers' Rights Act include a right for workers with family and carer responsibilities to request flexible work arrangements with a corresponding duty on employers to reasonably consider these requests. Refusal to reasonably consider a request for flexible work arrangements could then be the subject of a complaint to HREOC.

CHAPTER 4: Striking the balance in the workplace

Recommendation 7:

That the Australian Government establish a national working hours framework which promotes flexibility and encourages workplaces to limit long hours working.

In developing this framework, the Australian Government should consider the following:

- a) a program to address long and unpredictable working hours;
- b) a program to encourage workplace level negotiations about working time arrangements;
- c) incentives to employers to offer flexible working arrangements which reflect employee needs across the life cycle; and
- d) initiatives aimed at changing the organisation of work so that it better meets the needs of employees with family and carer responsibilities.

Recommendation 8:

That the Department of Employment and Workplace Relations develop industry specific resources in consultation with relevant employer and employee organisations in both blue and white collar industries to encourage the development of quality part time work.

Recommendation 9:

That the Australian Government establish a grants program to assist businesses to increase the number of senior and quality jobs that are available part time. This initiative would supply matched funding to businesses and voluntary organisations for projects designed to embed quality part time work in their organisations.

Recommendation 10:

That the Australian Government make a substantial commitment to a suite of measures to address the gender pay gap incorporating elements previously identified by HREOC.

Recommendation 11:

Monitoring of women's wage and employment conditions

- a) That the Office of the Employment Advocate be required to monitor and publish annually information about the wages and employment conditions in Australian Workplace Agreements with a particular emphasis on gender differentiated data.
- b) That the Australian Fair Pay Commission undertake a program of monitoring and research with respect to the federal minimum wage and its impact on women workers. Particular attention should be paid to vulnerable groups of women employees with limited bargaining power, especially women with disability, young women, women from culturally and linguistically diverse and Indigenous backgrounds, and women working in less protected sectors of the labour market, such as outworkers.

Recommendation 12:

That the Department of Education Science and Training, through the National Skills Shortages Strategy and in line with *Shaping our Future: Australia's National Strategy for Vocational Education and Training 2004 – 2010*, fund the development of innovative projects to increase the number of girls and women in non-traditional occupations in areas of skill shortages. This should be done in cooperation with State and Territory training authorities.

Recommendation 13:

That the Australian Government as a matter of priority introduce a national, government funded scheme of paid maternity leave of 14 weeks at the level of the federal minimum wage, as recommended by HREOC in *A Time to Value: Proposal for a National Paid Maternity Leave Scheme* (2002).

Recommendation 14:

Following the introduction of a 14 week paid maternity leave scheme, the Australian Government should consider phasing in a more comprehensive scheme of paid parental leave consisting of:

- a) At a minimum, two weeks of paid paternity leave to be taken at the birth of the child; and
- b) A further 38 weeks of paid parental leave that is available to either parent.

Recommendation 15:

Australian Fair Pay and Conditions Standard

- a) That the Personal/Carer's Leave Standard be increased from 10 days to 20 days per annum with 10 days to be non-accumulative.
- b) That the Australian Government consider introducing a new 12 month unpaid Carer's Leave Standard to be made available to employees who need to attend to the care of a seriously or terminally ill dependent. Like the Parental Leave Standard, this new Standard should be job protected and available to employees who have 12 months continuous service.

Recommendation 16:

That HREOC develop Employer and Employee Guidelines in relation to workers with family and carer responsibilities, setting out rights and responsibilities, including a specific focus on small business.

Recommendation 17:

That HREOC, in consultation with the Office of Workplace Services, be funded to develop comprehensive new resources and a major public awareness campaign focused on employers' and employees' rights and responsibilities under the new *Family Responsibilities and Carers' Rights Act*.

Recommendation 18:

That the ACCI/BCA National Work and Family Awards include new categories on father-friendly policies and carer-friendly workplaces in order to showcase best practices in the workplace for supporting working fathers and working carers.

Recommendation 19:

That an interdepartmental committee (including the Department of Families, Community Services and Indigenous Affairs, the Department of Employment and Workplace Relations and HREOC) should be established to examine initiatives to assist in improving the family-friendly culture within workplaces, including ideas such as:

- developing more broadly recognised resources for employers focusing on the business case benefits of implementing family-friendly work practices;
- developing training packages about the benefits of family-friendly work practices for middle and senior management; and
- developing community awareness programs focused on limiting working hours and discouraging presenteeism through workplace campaigns such as a "daddy go home on time" day.

Recommendation 20:

That HREOC, in consultation with the Office of the Employment Advocate, develop community resources to assist women with workplace negotiation and individual bargaining.

CHAPTER 5: Striking the balance in the family

Recommendation 21:

That HREOC develop education materials for use in high schools around the country about sharing care and other unpaid work.

Recommendation 22:

That the Australian Government fund a national multi-media community awareness campaign about workers with family/carer responsibilities, including the diversity of workers and families and with a targeted component for men with family/carer responsibilities.

Recommendation 23:

That the Australian Government conduct an audit of Commonwealth, State and Territory programs in family and health services to assess how well they prepare families for sharing care. The audit should include an assessment of current mainstream antenatal and early parenting programs and programs designed for separated fathers in order to identify best practice methods of increasing the engagement of fathers in care work.

Recommendation 24:

That the Australian Government fund the development of resources to assist newly partnered couples, and in particular prospective and new parents, to consider options and discuss arrangements for sharing care. These resources should be distributed through Family Relationship Centres and relevant community organisations.

CHAPTER 6: Government support: Welfare and tax

Recommendation 25:

That Family Tax Benefit Part B be modified to support couple families to share paid work and care and Australia move towards a system of progressive individual income tax in which child benefits are provided on a universal basis.

Recommendation 26:

That the child care tax rebate be modified to make it also available to parents as a fortnightly payment in the same way as the Family Tax Benefit Part B. This would require the Australian Tax Office (ATO)/Family Assistance Office (FAO) to develop a reliable calculator to enable parents to estimate their annual child care costs and make a claim either through the FAO for fortnightly payments or through the ATO for the rebate at the end of the financial year and to reduce the risk of overpayments. Where an individual elects to receive the payment as a tax rebate, it should be able to be claimed as part of an individual's tax returns for the financial year for which they have submitted that tax return.

Recommendation 27:

That the Australian Government examine the option of moving towards a system of earned income tax credits for working families which would encompass current Family Tax Benefit payments and the child care tax rebate. Such an examination should consider the circumstances of families where parents are not in paid work which may be eligible for a set proportion of the full level of tax credit support and a premium should be considered for children with specific needs, in particular disability.

Recommendation 28:

That in recognition of increased difficulties facing many sole parents and the large number of children in sole parent households living in poverty, the Australian Government should further review incentives and special assistance to enable sole parents to undertake paid work. Options for reform include the introduction of an in-work emergency fund to meet the cost of care related emergencies within the first 3 months of employment, a tax credit for sole parents entering the workforce for at least six months, and introducing a work related activity bonus on top of existing income support payments for sole parents with children aged under six years who engage in a work related activity.

Recommendation 29:

That State and Territory governments (who have not already done so) examine the introduction of a Carer Card, similar to existing Seniors Cards, to provide for additional benefits for carers with the aim of increasing participation of carers in the community, providing some financial benefits for carers and improving the recognition of carers across the community, government and health and disability sectors.

Recommendation 30:

That the Fringe Benefits Tax (FBT) exemption be expanded for all employers who subsidise dependent care through the establishment of a child care service either on or off their own premises or through subsidies/allowances paid towards employees' care costs (such as vacation care allowances, frail aged day programs, respite care and in-home support for people with disability).

Recommendation 31:

That the Australian Government extend the Superannuation Co-contribution Scheme to individuals who are not in the paid workforce because of caring responsibilities including caring for dependent adults or young children. An individual is to be eligible for government funded co-contributions if he or she is:

- a) eligible for Carer Payment;
- b) eligible for Parenting Payment; or
- c) in receipt of Carer Allowance in addition to another Government income support payment for people of working age such as Disability Support Pension/Newstart/Austudy/Abstudy.

Recommendation 32:

That the Productivity Commission undertake an inquiry into the feasibility of establishing a superannuation-like framework whereby the unpaid work of carers can be recognised by the Australian Government.

CHAPTER 7: Government support: Early childhood and care

Recommendation 33:

That the Australian, State and Territory governments finalise the National Agenda for Early Childhood as a matter of urgency to identify priorities for reform in early childhood education and care services, and the responsibilities of all stakeholders in delivering these priorities.

Recommendation 34:

That the Australian Government in cooperation with the States and Territories address concerns about quality in early childhood education and care services by initiating a review of the current quality assurance framework administered by the National Childcare Accreditation Council and establishing more transparent systems for quality assurance compliance. Such a review should consider standardising regulatory frameworks for service quality including the National Standards for child care, State and Territory frameworks and Quality Assurance frameworks.

Recommendation 35:

That the Productivity Commission instigate an investigation into the Australian early childhood education and care workforce with the aim of addressing shortages in the workforce, recommending ways in which the training and qualification requirements for employees working in children's services might be improved across the board, addressing perceived inequities in employee wages and working conditions and improving the status of children's services professionals.

Recommendation 36:

That State and Territory governments introduce a scheme of financial incentives for primary and secondary schools to introduce outside school hours activities with the aim of enabling all schools to be able to offer education and care to school aged children under the age of 16 during the hours of 8 am – 6 pm.

Recommendation 37:

That Australian, State and Territory governments offer coordinated grant based funding for community based organisations, schools and children's services to establish innovative projects which provide age appropriate activities for high school aged children and young people before and after school and during school holidays.

Recommendation 38:

That Australian early childhood education and care services be required to comply with Disability Standards for Education 2005 as a prerequisite for federal funding such as Child Care Benefit (CCB).

Recommendation 39:

That the Australian Government with the cooperation of the States and Territories develop a framework for a national preschool year of education for all four year old children in Australia as a matter of urgency.

Recommendation 40:

That the Australian Government with the cooperation of the States and Territories institute a comprehensive national review of early childhood education and care (ECEC) services, grounded in a commitment to children's wellbeing, with the aim of:

- ensuring that all children can access quality programs regardless of their socio-economic circumstances, geographic location or abilities;
- establishing the extent of demand for ECEC services so as to provide a better planning framework for the establishment and accreditation of children's services;
- providing greater options for families for non-standard hours child care services;
- ensuring that the funding formula and mode of payment most effectively reflect the needs of children; and
- improving affordability for working parents.

CHAPTER 8: Government support: Care for adults and support for carers

Recommendation 41:

That State and Territory governments, with cooperation with the Australian Government, develop state specific internet based resources (modelled on the NSW Government's Working Carers Support Gateway) in addition to an advisory service linked to existing infrastructure to inform working carers about their rights and provide greater information about support services and entitlements.

Recommendation 42:

That the Australian Government and other identified agencies work to further implement the recommendations from the HREOC National Inquiry into Employment and Disability, *WORKability II*, to better enable carers with disability to secure and retain employment.

Recommendation 43:

That the State and Territory governments develop additional specialist information resources for working carers with specific needs, in particular men, people with disability, grandparents, young carers, Indigenous carers and carers from culturally and linguistically diverse backgrounds.

Recommendation 44:

That in recognition of the workforce issues facing the formal aged care and disability service sectors and the expected increases in level of demand for these services, that the Australian and State and Territory governments prioritise strategies to improve recruitment, retention, training, working conditions and remuneration of employees in these sectors.

Recommendation 45:

That the Australian Government in cooperation with the States and Territories undertake a review of specialist disability services to identify where gaps in service provision and delivery could be addressed so as to improve the balance between paid work and caring responsibilities for men and women workers with disability.

Chapter 1: Background

1.1 Introduction

The topic of balancing paid work and care, or as it is also called, the “work and family debate” or “work/life balance”, has been the subject of much community discussion in recent years. As a contribution to this debate, in June 2005 the Human Rights and Equal Opportunity Commission (HREOC) released the discussion paper *Striking the Balance: Women, men, work and family*¹ (*Striking the Balance* discussion paper). Building on HREOC’s work on sex discrimination and gender equality in employment,² the *Striking the Balance* discussion paper examines the way in which Australian men and women balance their paid work and family and carer responsibilities.

This final paper on women, men, work and family makes the case for a new approach to balancing paid work and care in Australia.³ It outlines a life cycle approach to managing paid work and care demands across the life course. It also proposes a series of changes to legislation, workplace policy and practice and government policy and programs in line with a “shared work – valued care” approach (this approach is discussed further in Chapter 2).

This chapter outlines the objective of the women, men, work and family project, the human rights principles relevant to workers with family and carer responsibilities, the background and methodology to the project and the gaps in available data.

1.2 Broadening the work and family debate

While preparing the *Striking the Balance* discussion paper, HREOC was repeatedly told of the struggles that both men and women experience in managing their competing paid work and family and carer responsibilities. However, balancing paid work and family/carer responsibilities is commonly considered a women’s issue that relates only to paid employment. The women, men, work and family project aims to broaden the debate in three ways.

First, this project considers the roles of both men and women as workers and carers. A growing community interest in men’s role in family life is evident with increasing numbers of men advocating better acknowledgement of and support for men’s caring

1 Human Rights and Equal Opportunity Commission *Striking the Balance: Women, men, work and family Discussion paper* HREOC Sydney 2005 (*Striking the Balance* discussion paper).

2 Human Rights and Equal Opportunity Commission *A Time to Value: Proposal for a national paid maternity leave scheme* HREOC Sydney 2002 and Human Rights and Equal Opportunity Commission, *Pregnant and Productive: It’s a right not a privilege to work while pregnant* Report of the National Pregnancy and Work Inquiry HREOC Sydney 1999.

3 In this paper the terms “balancing paid work and care”, “family and carer responsibilities” and “family/carer responsibilities” (as an abbreviation) will be used to encompass the full range of unpaid/informal care responsibilities that families and workers undertake across the life course. While HREOC used the term “paid work and family responsibilities” throughout the *Striking the Balance* discussion paper in this same inclusive sense, it is clear from HREOC’s consultations with the public that “family responsibilities” are often assumed to refer exclusively to the care of children. Similarly, the term “carer responsibilities” is often understood as referring only to the care of older people or people with disability. For clarity, HREOC has opted to use both terms together in this paper. Where the paper refers to particular types of family/care work in the text it will be specified as such (e.g. as “parenting” or “caring for people with disability”). The term “carer” is used to refer to a person providing unpaid care to an older family member or someone with an illness or disability.

roles, particularly parenting. Alongside this development is a growing international recognition of the role of men and boys in working toward gender equality.⁴ In line with these changes, a major aim of the women, men, work and family project is to engage men in paid work and care debates.

Second, the women, men, work and family project aims to broaden the concept of family responsibilities to encompass all forms of caring, not only child care, but also care for older people and people with disability requiring care. The project also acknowledges the complexity of worker/carer relationships: for example, many people in paid employment may also need care and older people or people with disability may also be carers.

Third, the women, men, work and family project aims to highlight the relationship between paid and unpaid work. Many paid work and care discussions focus on paid work without examining its necessary reliance on unpaid work. The project focuses particularly on the gendered nature of unpaid work, that is, women's continuing disproportionate responsibility for tasks such as child care, elder care,⁵ housework and household management and the impact that this has on women's and men's paid work opportunities.⁶

When these three themes are included in a policy discussion of workers with family and carer responsibilities the debate moves beyond considerations such as the responsibility of workplaces to provide flexibility, or the role of government in regulating workplaces and assisting families. It becomes a question of how well Australian society values the essential work of care and, as evident through HREOC's consultations, a question of time. It also indicates that a genuine response to reconciling paid work and care must integrate elements of government policies and programs, workplace structures and cultures, legislative provisions and family decision-making. Responsibility for these areas is shared between all of the social partners engaged in the issue, including governments, employers, industry leaders, unions, community organisations, service providers and individuals and their families.

1.3 HREOC and the human rights principles supporting workers with family and carer responsibilities

HREOC is Australia's independent national human rights institution.⁷ It has a variety of functions which include promoting an understanding and acceptance of human rights in Australia including equality between men and women and equality for employees with family/carer responsibilities.⁸

Federal discrimination laws

At a federal level, the government has enacted laws that provide protections for workers with family and carer responsibilities. These federal discrimination laws include the *Sex Discrimination Act 1984* (Cth) (Sex Discrimination Act) and the *Disability Discrimination Act 1992* (Cth) (Disability Discrimination Act).

4 United Nations Commission on the Status of Women *The Role of Men and Boys in Achieving Gender Equality: Agreed Conclusions* Forty-eighth session 1-12 March 2004, Advanced unedited version, as adopted 12 March 2004 <http://www.un.org/womenwatch/daw/csw/csw48/ac-men-auv.pdf>.

5 The term "elder care" is used in this paper to refer to unpaid informal care of older people requiring care. The term "aged care" is used to refer to paid formal care of older people requiring care.

6 See *Striking the Balance* discussion paper, in particular pp 25-47.

7 HREOC is an independent statutory authority established under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth) (HREOC Act).

8 Section 11(1)(g) of the *Human Rights and Equal Opportunity Commission Act 1986* (Cth).

The Sex Discrimination Act makes it unlawful to discriminate on the grounds of sex, marital status, pregnancy, potential pregnancy, or to sexually harass another person, in many areas of public life, such as employment and education.

The Sex Discrimination Act also makes it unlawful to discriminate against a person on the ground of their family responsibilities by dismissing them from employment. Dismissal can include what is termed “constructive dismissal”, where the employee is not formally dismissed but the employer’s actions give the employee no choice but to leave their employment. Protection against discrimination on the grounds of family responsibilities is more limited than the other grounds under the Sex Discrimination Act. A key focus of the women, men, work and family project is an examination of how the Sex Discrimination Act operates to assist Australian families to balance paid work and care and whether law reform may be necessary.

The Disability Discrimination Act provides protection against discrimination for workers with disability and workers who are “associates” of people with disability. The term “associate” is defined in the Disability Discrimination Act to include, *inter alia*, a carer.⁹ The Disability Discrimination Act makes it unlawful to discriminate against a person on the ground of the disability of that person’s associates in certain defined areas of public life, including employment.¹⁰

International human rights obligations

In addition to these domestic laws, the Australian Government has agreed to be bound by a number of international human rights treaties which protect workers with family and carer responsibilities.

The following human rights treaties are most relevant to this project.

- *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW),¹¹ which requires the Australian Government to “take all appropriate measures to eliminate discrimination against women in ... employment”¹² and to “encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities”¹³
- *Convention (No 156) Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities* (ILO 156),¹⁴ which protects workers with family and carer responsibilities¹⁵ by requiring the Australian Government to take account of the needs of workers with family responsibilities in terms and conditions of employment;¹⁶ and ensure that workers are not terminated on the basis of their family responsibilities.¹⁷

9 Section 4 of the *Disability Discrimination Act 1992* (Cth).

10 Section 15 of the *Disability Discrimination Act 1992* (Cth).

11 Opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981), ratified by Australia 28 July 1983. The Convention is set out in the Schedule to the *Sex Discrimination Act 1984* (Cth).

12 Article 11(1).

13 Article 11(2)(c).

14 Opened for signature 23 June 1981, 1331 UNTS 295 (entered into force 11 August 1983), ratified by Australia 30 March 1990.

15 Some researchers have argued that a number of additional international Conventions, in particular ILO Conventions 87 and 98 (on Freedom of Association and Collective Bargaining), are integral to protecting Australian employees with family responsibilities because of the role that employee organisations and collective bargaining arrangements have historically played in providing such protections: see, for example, Barbara Pocock *Jobs, Care and Justice: A fair work regime for Australia* Clare Burton Memorial Lecture Sydney 8 November 2006, p 18.

16 Article 4(b).

17 Article 8.

- *Convention (No 111) Concerning Discrimination in respect of Employment and Occupation* (ILO 111),¹⁸ which prohibits discrimination in employment.

In addition, there are number of human rights treaties which require Australia to protect and assist the family including the *International Covenant on Civil and Political Rights* (ICCPR)¹⁹ and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).²⁰ The interdependency of the rights of the child on the rights of the parents is recognised by the *Convention on Rights of the Child* (CRC)²¹ which requires Australia to assist both parents in the performance of their common responsibilities. Recent developments in international human rights law also recognise the importance of recognising and protecting the rights of people with disability and older people.

Certain of these international human rights obligations provide, in part, the constitutional basis for the federal discrimination laws discussed above.²²

These human rights principles underpin this paper. The relevance of these human rights treaties to the rights of workers with family and carer responsibilities is discussed further in Chapter 3.

1.4 Background and methodology

The women, men, work and family project – which has become known by many as “Striking the Balance” – was announced in February 2005. A discussion paper was released in June 2005. Shortly after the project was announced the House of Representatives Standing Committee on Family and Human Services resolved to conduct an Inquiry into Balancing Work and Family. Some of HREOC’s findings and recommendations dovetail with those contained in the Report of the House of Representatives Inquiry into Balancing Work and Family, which was released when this paper was being finalised.²³ The House of Representatives Inquiry and the women, men, work and family project both attracted significant interest from the media and the public, which has in turn supported the development of this document.

The *Striking the Balance* discussion paper reviewed a wide range of quantitative and qualitative data on paid and unpaid work, with a particular focus on labour market and time use statistics. The paper canvassed the available data on carer arrangements, including for children, people with disability and elder care. The *Striking the Balance* discussion paper also brought together data on productivity, population ageing, fertility, social capital, workplace initiatives, and attitudinal research. The final chapter of the *Striking the Balance* discussion paper presented a range of goals and possible options for change in the areas of legislation, social policy, workplace culture and community attitudes.

18 Opened for signature 25 June 1958, 362 UNTS 31 (entered into force 15 June 1960), ratified by Australia 15 June 1973, entered into force for Australia 15 June 1974.

19 *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), ratified by Australia 13 August 1980, entered into force in Australia 13 November 1980.

20 *International Covenant on Economic, Social and Cultural Rights*, opened for signature December 1966, 999 UNTS 3 (entered into force 3 January 1976), ratified by Australia 10 December 1975, entered into force for Australia 10 March 1976.

21 *Convention on the Rights of the Child*, opened for signature on 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990), ratified by Australia 17 December 1990, entered into force for Australia 16 January 1991.

22 See also Chapter 3 (section 3.2).

23 House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006. Some of the report’s findings are referred to where relevant throughout this paper.

The *Striking the Balance* discussion paper was also informed by the advice and review of three advisory panels (academic, employment and community) who convened for a roundtable and provided valuable advice throughout its development. As with the *Striking the Balance* discussion paper, the advisory panels offered substantial guidance, advice and review on the development of this final paper. HREOC greatly appreciates the honorary assistance that our advisory panels have provided throughout this project. A list of the advisory panels consulted for this final paper is provided at p 213.

Written submissions were invited in response to the questions posed in the *Striking the Balance* discussion paper. One hundred and eighty one submissions were received from individuals and groups which included employers, employer groups, unions, women's and men's community groups, academics, legal groups, and State, Territory and federal Governments and agencies. A list of submissions is provided at pp 205-209.

A total of 44 consultations and focus groups were held around Australia with employers, employer groups, unions, men's and women's community groups and interested individuals.²⁴ Of the 28 consultations that were conducted, two were held in regional and rural areas while the remainder covered each State and Territory capital city. Sixteen focus groups were conducted and these included public and private employers, white and blue collar employees, mothers and fathers, a father's group and primary school aged children. A list of the consultations is provided at p 211.

In addition, HREOC spoke to a range of individuals and organisations throughout the project and the Sex Discrimination Commissioner received feedback via many public forums and speaking engagements throughout the course of 2005 and early 2006. While the full extent of this input is not documented in this paper, it has contributed significantly to this final paper and HREOC is grateful to all of those who provided these contributions.

1.5 Research and data

HREOC has identified a number of gaps in currently available research in the broad area of paid work and family and carer responsibilities.

The priority areas that HREOC has identified are in relation to unpaid work, caring experiences across the life course, and gender differences in wage changes and employment conditions over time. HREOC has also identified a range of other areas where a stronger evidence base is needed in order to measure progress and inform future policy development. These areas are discussed in the chapters that follow.²⁵

There is a clear need for regular time use surveys in order to measure changes in unpaid and paid work over time and to inform policy development on paid work and family and carer responsibilities. While another Australian Bureau of Statistics (ABS) time use survey is planned for release in the second half of 2007, it has been nine years since the last survey.²⁶

Comparable data on the care arrangements for children, older people and people with disability is also lacking. While a number of surveys measure different types of care they

24 Not all of these consultations and focus groups were recorded; some were scribed. Where quotes that appear in this paper were hand scribed only they are as close as possible to the actual words spoken.

25 The need for greater Australia to develop a more comprehensive collection of sex-segregated data, in particular in relation to ethnicity and disability, was raised by the UN Committee on the Elimination of Discrimination against Women at its Thirty-fourth session in January 2006: *Concluding comments of the Committee on the Elimination of Discrimination against Women: Australia* held at Headquarters, New York on Monday 30 January 2006, p 3. See also discussion in Chapter 5 (section 5.8) and Chapter 8 (section 8.4).

26 The 2006 ABS Time Use Survey was in the field at the time of writing and was planned for release in September 2007. See also *Striking the Balance* discussion paper, p 5.

do not facilitate a comprehensive measurement of family and carer responsibilities across the life course. As overlap between these types of caring are expected to increase in future, information on this trend will be even more necessary.²⁷

A set of questions on experiences of child care, elder care and care for people with disability that could be incorporated into an existing survey, or alternatively a new survey, would address this research gap. Development of these survey questions would need to include consultation with a variety of community stakeholders and policy makers. In particular, a standard definition of care that captures the full extent of care experiences is needed, as is data about the range of family types. Survey questions should also include information on the employment experiences of carers.

Research carried out for HREOC has identified the need for the collection of comprehensive and detailed indicators of employment status that are comparable across time.²⁸ Measuring gender differences in wages and employment conditions is particularly important given the new national workplace relations regulatory framework, which covers approximately 85 per cent of employees.²⁹

Recommendation 1:

That the Australian Bureau of Statistics be funded to produce a full national time use survey at regular five-yearly intervals to help inform and measure progress towards gender equality in paid and unpaid work.

Recommendation 2:

That the Australian Bureau of Statistics be funded to develop a set of questions on experiences of child care, elder care and care for people with disability for distribution either in appropriate regular national surveys of households, or a new specialist survey, in order to collect comparable data on the range of informal and formal care provided within Australia.

Recommendation 3:

That the Department of Employment and Workplace Relations establish a national workplace relations survey to be carried out and published annually to monitor gender differences in changes in wages and employment conditions within the new workplace relations regulatory framework. This survey should be developed in consultation with key stakeholders including State and Territory governments, employers and unions and collect data about the diverse range of employees and employers including by disability, ethnicity and Indigenous status.

27 See discussion in Chapter 4 (section 4.9) and Chapter 8 (section 8.2 and section 8.4). See also the mix of different statistics used to paint the picture of these care experiences in *Striking the Balance* discussion paper pp 25-38 and pp 39-47.

28 See Alison Preston, Therese Jefferson and Richard Seymour for WiSER – Women in Social & Economic Research *Women's Pay and Conditions in an Era of Changing Workplace Regulations: Towards a "Women's Employment Status Key Indicators" (WESKI) database* Curtin University of Technology September 2006, p xiv and pp 4-20. This research need is also recognised by the House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006, in particular pp 150-155 and their Recommendation 6.

29 See Alison Preston, Therese Jefferson and Richard Seymour for WiSER – Women in Social & Economic Research *Women's Pay and Conditions in an Era of Changing Workplace Regulations: Towards a "Women's Employment Status Key Indicators" (WESKI) database* Curtin University of Technology September 2006, p xiv. See also further discussion in Chapter 4 (section 4.6).

1.6 Conclusion

The *Striking the Balance* discussion paper took a very broad approach to the topic of paid work and care, on the assumption that consultations would direct the focus of the final paper to specific areas of major concern. However, it became clear during consultations that community concern encompasses the entire spectrum of issues. Significant attention was directed towards ensuring that HREOC took a broad focus consistent with the directions of the discussion paper. HREOC was commonly urged to address how our society values care and how as a society we value and manage our time resources.

Valuing care and easing time pressures and conflicts means more than ensuring flexible, family-friendly workplaces. While a balance between paid work and care is an essential component of a society that values care, it is not enough in itself. Valuing care and time requires tackling the inequality that sets the parameters for how we arrange our paid and unpaid work. We also need to refocus national attention on care and its role in supporting our society and broadening our concerns about traditional national interest aims such as prosperity and productivity to include the work of care as integral to our national progress.

Incorporating the work of caring across the life cycle into our national interest agenda means not only properly valuing this work but attending to the issue of gender equality. Balancing paid work and family/carer responsibilities cannot be achieved without considering the whole spectrum of paid and unpaid work that men and women undertake and the way this work is spread between them. This consideration should not be viewed as working against the achievement of a prosperous and productive economy. Rather, the goal of gender equality in both paid and unpaid work should be considered as a necessary pre-condition of a well functioning society.³⁰

Gender equality and balancing paid work and care are important goals in their own right. Australia is bound by a number of international human rights instruments that require measures to promote shared responsibility for caring and domestic responsibilities, including CEDAW and ILO 156, as discussed above.³¹ These obligations recognise that family responsibilities are not simply a matter of individual choice but a load experienced disproportionately by women, an experience that is “one of the most important reasons for their continuing inequality in employment and occupation”.³²

This paper makes the case for a new approach to balancing paid work and care based around a holistic principle of shared work – valued care. Helping families balance their competing demands and providing them with the resources to ensure their wellbeing will not be achieved by treating particular issues in isolation. Addressing concern about child care, ensuring workplaces are family-friendly or better tailoring welfare and taxation policy towards gender equality would each assist progress towards paid work and care balance, and each issue is complex and important in its own right. However, the message from the consultations was that Australia needs to take a different conceptual approach, one that deals with these issues urgently and as a whole. A society that values care will not be achieved as a by-product of economic growth and productivity. Rather, valuing care and time are ends in themselves and should be included in national interest priorities along with economic goals. This issue is discussed further in the following chapter.

30 This point is discussed further in Chapter 2.

31 See also discussion in Chapter 3 (section 3.2).

32 International Labour Organization *General Survey: Workers with family responsibilities*, International Labour Conference 80th Session 1993, Report III, Part 4B, 1993, [25].

It is important to note at the outset that while HREOC advocates a holistic approach to paid work and family and carer responsibilities, a comprehensive coverage of everything that impacts on this area would be impossible for a single paper. Instead, this paper sketches a new framework for managing paid work and family/carer responsibilities across the life cycle along with a series of recommendations in priority areas to support the implementation of this framework.

Chapter 2: It's about time

Woman: Paid work and child care

I end up doing the bulk of the unpaid work at home because my husband being a handyman, most nights he gets home at 7-7.30 so by that time I've taken the kids to their squad training three times a week. So three nights a week I'm off at the swimming pool doing that. Tuesdays we have a meeting at work, now on Thursdays my younger son is going to be doing cricket training – so that sort of takes up all my afternoons. And then when I get home I've got to get dinner ready, get the washing done, so I've got to do all the housework, help the kids with their homework, and most times I just think, just don't do it, just leave it, I'm just so tired ... My husband still works on the Saturday, so yeah, like most people look forward to the weekend, I sort of dread it, especially when there are assignments as well. That's what I was doing before I got here. It's just tiring. I'm just thinking when I go home I'm just going to find it an absolute mess.³³

Man: Paid work and care of children with disability

As the boys get up I get them their medication, have a shower, the younger one frequently wets his bed so I have to sort that out. Breakfast can be a struggle; the older one has anxiety disorder and multiple personalities. The younger one has been diagnosed with ADHD and lost his appetite (due to the medication). Juggling their medications in the morning can be hard ... After school my wife is home generally ... my wife likes to eat at about 5 with the boys. I come home about 7-7.30 and grab what's left. I watch TV with the boys [and] then I read to one whilst she reads to the other. They are supposed to go to bed by 8.30 but sometimes it's 11.30 before they actually get to sleep. On weekends I drive the older one to dancing lessons. My wife doesn't drive so I do all the dropping off and shopping, and they have psychologist's appointments every other week. On the weekends I drive the younger one to activities and watch or sit outside and read the paper.³⁴

Woman: Paid work, child care and elder care

He says "I've got a meeting and is there a chance you can start early and leave early?" so that I can then take the girls to sport. So I start work early so that I can leave early and then zoom the girls over to their training ... If it's a bad week I can be straight from work to my mum's and then to the Prince of Wales hospital and then home for dinner and up again at 6 am to go to work and that can happen 5 days out of 7. And then there are my grandparents, if they call then I'll be straight over there. My grandfather is still driving but if he is having difficulties then I'll have to pick up supplies for them like milk, bread etc. and take it over ... You do as much as you can. You're either cooking, doing homework, taking them to school [or] dancing, cleaning the house, doing the finances ...³⁵

A child's perspective

My dad sometimes has to work on weekends and doesn't spend that much time at home because he is a manager ... I wish I could see him a bit more on the weekdays.³⁶

33 HREOC Focus group 4, February 2005.

34 HREOC Focus group 5, February 2005.

35 HREOC Focus group 3, February 2005.

36 HREOC Focus group 15 (Primary school aged children 9-12 years), January 2006.

2.1 Introduction

At the heart of efforts to “strike the balance” between paid work and family and carer responsibilities is the issue of time. How we manage the time we spend on paid work and unpaid work in daily life and throughout the various life stages is a key concern of contemporary Australian life. In the stories that the Australian community has told HREOC over the past twenty months, time pressures, conflicting demands on time and a desire for more time to enjoy family and friends all feature strongly.³⁷ Many Australians clearly hunger for the capacity to share simple daily rituals such as family meals or significant school or sporting events, to provide care to family members with illness or disability and to commit to paid work without always struggling against time constraints.

Managing time is not just about individual choices and concerns, but also the support that exists within families and communities for those choices. Further, government policy, workplace policies and practices, and social values all play a large part in either reinforcing or constraining the choices of individuals and families.

This chapter provides an overview of the Australian community’s views on balancing paid work and care. It maps the way that paid work and caring roles may change across the various life stages and points out the role that equality between men and women plays in balancing paid work and family/carer responsibilities. HREOC proposes a new framework which incorporates the principle of shared work – valued care as a way of best responding to current paid work and care conflicts. Finally, this chapter puts the paid work and family/carer responsibilities issues raised in consultations and submissions into the context of the national interest.

2.2 What the Australian community told us

The Australian community has told us that

- Despite a decade or more of economic growth and prosperity many Australians are not living the lives they want and they feel pressured, stressed and overly constrained in the choices they can make. Many expressed dissatisfaction that their improved living standards have not appeared to bring them greater quality of life or better family relationships.

It [time pressure] is having a huge impact on children. Fundamentally there is less time. People talk about being time poor – it is common, and now you are not only time poor ... you are also buggered. We always talked about quality time and now I wonder about the quality of the quality time.³⁸

My wife and I decided when we were having kids 12 years ago that I would keep working for economic reasons and that my wife would stay at home and that is now a self fulfilling prophecy. Economically we are satisfied but it has placed enormous stress on our relationships both with the wife and children.³⁹

- They are struggling to meet the time demands of paid work and care, particularly at key points in the life cycle such as early years parenting and caring mid-life for elderly relatives.

It’s a logistical nightmare every day.⁴⁰

37 Similar stories were also reported to the recent House of Representatives Inquiry into Balancing Work and Family. See House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006, pp 23-24.

38 Community Consultation, Perth, 13 September 2005.

39 Union Consultation, Canberra, 5 September 2005.

40 Community consultation, NSW Central Coast, 4 August 2005.

I have NO TIME at all for myself, for my partner, for my parents, for my relatives, for my friends. My relationships with people have become very superficial and reactive. I can hardly attend to urgent calls to nurture my children. In attending to urgent matters only I deprive my children from delights of spontaneity. Their childhood [is] becoming burdened with the sense of urgency, with no time to celebrate successes, no time to unwind, all which takes away sense of achievement and enjoyment in life.⁴¹

- They are also struggling to meet these time demands at key points in the daily and yearly cycle, such as after school hours and during school holidays or periods of demand in paid employment.

How can a woman work with four weeks leave and have kids at school which has 12-14 weeks leave – it is clearly impossible. The juggle, the struggle of our daily life could be massively improved by a serious rethink and realignment of school and work. We both work part-time as we have wanted to participate in these precious early years and have realised that school years are actually going to be harder to coordinate.⁴²

- External support for families managing paid work and care is patchy at best and counter productive at worst.

[W]hy is it that if I had two children, when my work hours and gross income increases by 100% from four to eight days a fortnight, my take home pay less tax and child care costs, increases by a pathetic 36%? How is that a fair and equitable proposal to entice women into the workforce? ... I would dearly love to raise a large family and continue to work part time ... The policies of the current government seem to recognise this need but fuddle around with an appropriate way of implementing any assistance ...⁴³

- Governments are supporting people to manage these difficulties well in some areas but poorly in others, with some groups of people experiencing acute difficulty accessing the support they need to combine paid work and care.⁴⁴

My case is typical of many lone parents ... [who] have made the choice to work on a part-time basis ... If I earn too much income and lose the partial parenting payment I currently receive, I will lose many of its associated benefits e.g. subsidised rent, access to low cost pharmaceutical prescriptions, assistance with car registration costs to name a few. And to earn enough income to cover these additional expenses I would need to work on a full-time basis and leave my young daughter aged 12 years to come home alone each afternoon after school ...⁴⁵

- Employers are also doing better in some industries, occupations and types of employment than in others, with many employees finding it difficult to meet their caring responsibilities due to inflexible workplace structures and cultures.⁴⁶

[T]he ones with most [flexibility] are those in IT or white collar work, but in traditional roles it doesn't seem to fit in.⁴⁷

For the majority of unskilled workers you will take what you are given. Maybe if you are a professional you will bargain for conditions and pay.⁴⁸

41 Jasna Hadzimejlic, Submission 82, p 2.

42 Shona Guilfoyle, Submission 176.

43 Natalie Morton, Submission 65.

44 See discussion throughout Chapters 6, 7, and 8.

45 Anne Stewart, Submission 42.

46 See discussion in Chapter 4.

47 Community consultation, Melbourne, 17 August 2005.

48 Union consultation, Darwin, 23 September 2005.

- Not all Australian families feel that their choices are supported, and some feel particularly unsupported and pressured into unsatisfactory arrangements.

When my wife and I were at that stage we looked at all the finances and decided that if we had three kids then it would be worthwhile her quitting work because the child care would be too much. The other side then is you have a wife with knowledge and skills who then can't re-enter the workforce after 10 years out.⁴⁹

My partner and I are 23 years old and have a set of 13 month old twins. One of the twins has a disability. I, the male have a decent job that we can just live off. There is absolutely no possible way we could put our children in child care. My partner couldn't possibly earn enough to pay for it as it is so expensive and the government doesn't give you much back. Thus I am stuck at work full time and she is stuck at home full time. We have no choice.⁵⁰

- Australian men and women do not want to be forced into paid work and care arrangements that do not suit them or their families.

You have to be earning a certain amount to make returning to work worthwhile anyway. If you have two children to put in child care and pay for that and then if it isn't worthwhile, she stays at home and there is more pressure on the father to do more [paid] work.⁵¹

- The paid work and care arrangements that many Australians rely upon feel fragile and strained to them, particularly for those who have poor quality or lower paid work, those who experience lack of control over their working hours and those who work long hours.⁵²

How you do get back into the workforce? You double your time, if you're a single parent. I work[ed] six casual jobs to cover one full time job. I'm finally employed full time. How that's impacted both my children? They've seen the work ethic. And probably what we miss most is the family time. We have to push for that, so every Sunday a fortnight we have dinner together. We do a lot of juggling ...⁵³

- Family relationships are suffering where there is a poor balance between paid work and caring work.

I get accused of being an absentee father even when I'm at home, as I'm "still at work".⁵⁴

I don't have the chance to talk to dad much at home because he is on the telephone for work.⁵⁵

I would work, pick up the kids and then be expected to come home and have everything ironed, washed, dinner on the table, and his lunch made for the next day ... I didn't expect it to be like that ... We separated when my youngest daughter was one ...⁵⁶

- When paid work and care arrangements are balanced and stable, and unpaid work is shared within families in a way that seems fair to them, Australians report a high degree of satisfaction with work and family relationships, and a general sense of wellbeing.

49 Union consultation, Hobart, 11 August 2005.

50 Respondent in a survey on work and family balance cited in Community and Public Sector Union, Submission 90, p 13.

51 Community consultation, Sydney, 9 November 2005.

52 See discussion in Chapter 4 (sections 4.3, 4.5, 4.6, 4.7, 4.8 and 4.10).

53 Community consultation, NSW Central Coast, 4 August 2005.

54 HREOC Focus group 9 (Male long hours worker), July 2005.

55 HREOC Focus group 15 (Primary school aged children 9-12 years), January 2006.

56 HREOC Focus group 3, February 2005.

I'm one of the few lucky fathers, who has a work life balance ... It is best for me, best for my daughter and best for mum too.⁵⁷

... I was really grateful when my wife and I went back to a sharing role. The great thing about all this is that I have a great relationship with all my kids and I don't think that this would have come about but for the time I spent at home with them and the skills that I learnt from that experience.⁵⁸

2.3 Responding to conflicts in paid work and caring responsibilities

Given the complexity of paid work and family/carer responsibility issues, developing a comprehensive and practical response to the concerns that Australians raise can seem an overwhelming challenge. In HREOC's view, an important starting point is to consider and articulate a general framework on which more detailed responses can be based. Drawing on material from consultations and submissions, HREOC has concluded that a paid work and family/carer responsibilities framework must:

- allow for changes in caring needs and responsibilities across the life cycle;
- address equality between men and women; and
- support a shared work – valued care approach.

Paid work and care across the life cycle

Caring needs and responsibilities clearly change over the course of a lifetime. Key transition points, such as childbirth, onset of a disability or ageing can intensify these needs and responsibilities. In addition, paid working patterns, particularly for women and people with disability, are not necessarily consistent, with many individuals entering and exiting the paid workforce as their needs or responsibilities change.

The significant social and demographic change of the past decades has meant that Australian men and women are increasingly experiencing life as both workers and carers at various points in the life course. Women are in paid work in unprecedented numbers, an increasing number of men are embracing nurturing roles within families, workforce participation of people with disability, sole parents and mature aged workers has become an Australian Government priority and the so-called "baby boomer" cohort is ageing at a time when women are giving birth later in life, thus increasing the likelihood of dual caring responsibilities for both children and ageing parents.⁵⁹

The stories that HREOC has heard during the course of this project indicate that while Australia has a history based on the sole breadwinner family model,⁶⁰ this is clearly an arrangement which no longer applies to the majority of families either in the paid workforce or families with caring responsibilities more broadly.

Despite these changes, Australia does not yet have a new social vision that supports these dual roles for both men and women. The most appropriate vision for Australia must be one that is flexible enough to support families throughout the life course as caring responsibilities and care needs change.

57 Phil Jones, Submission 4.

58 Bob Hodgson, Submission 58.

59 See *Striking the Balance* discussion paper at pp 52-56; pp 67-77 and Chapter 4 (4.5) and Chapter 8 (8.3 and 8.4).

60 See *Striking the Balance* discussion paper at pp 52-53 and discussion in Chapter 4 (4.4 and 4.9).

Equality between men and women is central to resolving conflict between paid work and family/carer responsibilities

Australia has progressed well in terms of promoting gender equality across many important areas of contemporary life.⁶¹ However there are also areas where Australia is not progressing so well and balancing paid work with care responsibilities is chief among them. Increased paid work opportunities for women in the past twenty years have not produced a corresponding change in the division of unpaid responsibilities between men and women. The total work effort has risen; the time available for social responsibilities has dropped. Women in paid work experience the additional pressure of managing family life, while men in full time work lack access to family life.⁶²

While discussions about the time pressures experienced by families often focus on parents and children, other working carers, particularly primary carers, also experience these pressures.⁶³ For example, the Working Carers Support Gateway records the experiences of Cathy, a 56 year old woman who has cared for her husband (who has Parkinson's Disease) for over 10 years and more recently also for her father. Cathy says "[C]aring became virtually full time in tandem with full time work; I moved at top speed all day, whizzed home from work three times a day to wash, shower, feed, dress, toilet one or both men, and worked till late at night so my students were not disadvantaged".⁶⁴

As noted through the *Striking the Balance* discussion paper, women with caring responsibilities carry a disproportionate share of unpaid work, including child care, elder care and associated housework.⁶⁵ Research shows that women are more likely than men to experience time pressures resulting from their high paid and unpaid workloads, with attendant health and wellbeing effects.⁶⁶ Other research shows that men's time use patterns also affect their health and wellbeing in negative ways.⁶⁷ HREOC's consultations and focus groups with parents lend weight and urgency to these research findings.

The consequences of this time pressure for men and women are clear. Women find it more difficult to continue in paid work, and so frequently lack economic independence or the capacity to adequately provide for their families – an economic state which becomes particularly difficult in the event of relationship breakdown. Sole parent families, usually headed by a woman, frequently live in poverty. Other specific groups of women also feel these consequences in different ways. Women with disability who have caring responsibilities often find that the many pressures on their time

61 Across the five areas used by the World Economic Forum to measure the gender gap between women and men: economic participation, economic opportunity, political empowerment, educational attainment, and health and wellbeing, Australia is ranked as number ten out of the fifty-eight countries assessed for the extent to which women have achieved equality with men. World Economic Forum *Women's Empowerment: Measuring the global gender gap* World Economic Forum Geneva 2005.

62 This point was made repeatedly in HREOC consultations and focus groups – see quotes throughout this paper and in Chapter 5 in particular. See also *Striking the Balance* discussion paper pp 52-55 and p 57.

63 While the average carer provides around nine hours care per week, nearly half of all primary carers of people with a profound core activity limitation provide more than 40 hours per week of care and a further 10 per cent provide between 20 and 39 hours per week: Access Economics *The Economic Value of Informal Care* Report for Carers Australia August 2005, p i and p 8.

64 See Working Carers Support Gateway at www.workingcarers.org.au/carer-stories.html. See also stories reported by Carers NSW at www.carersnsw.asn.au.

65 See *Striking the Balance* discussion paper Chapter 3 and Chapter 4.

66 See research cited in *Striking the Balance* discussion paper pp 58-59.

67 See Leonie Bloomfield, Submission 34. See also L J Bloomfield *Killing Time: The effect of boredom during unstructured leisure time on men's health* Unpublished Ph.D. Thesis Melbourne Victoria University, 2005.

can make gaining and retaining employment extremely difficult.⁶⁸ Further, in an era of self-funded retirement, women find themselves disadvantaged in their later years, with recent figures showing that half of all women aged 45-60 have \$8 000 or less in superannuation, while 70 per cent have \$25 000 or less.⁶⁹

Women who devote many years to unpaid care of children and other family members are making a significant economic contribution to the Australian community, and shouldering responsibilities that would otherwise have to be taken up by tax payers through government services. Yet their experience of caring is likely to leave them financially vulnerable and with more limited employment opportunities.

Australian men find their work and occupational choices confined in different ways: they are less likely than women to provide residential care for their children after relationship breakdown, are more likely to suffer work-related injury and death and live, on average, five years less than women.⁷⁰ Australian wellbeing indices also confirm that men are less likely to be happy than women.⁷¹ One explanation for these differences in men's lives is their longer hours in paid work and the pressures many men experience as breadwinners. Less time spent in care work may also restrict opportunities for developing close family relationships and community connections. For both men and women then, the imbalance of paid work and family/carer responsibilities has a direct impact on their life outcomes.

Aiming for gender equality in paid and unpaid work is therefore not simply about empowering women. As the World Economic Forum has noted: "Gender is not synonymous with women, nor is it a zero-sum game implying loss for men; rather, it refers to both women and men, and to their status, relative to each other."⁷² We cannot have balance between paid work and care while the onus of care is on women because of the negative effects for both women and men. Gender equality, in terms of balancing paid work with care, means assisting women and men to balance the total paid and unpaid work effort better within families. It also means a better sharing of the costs – in the broadest sense of this word – across all of the social partners in the paid work and care debate.

A shared work – valued care approach

A guiding principle for approaching paid work and caring issues, across the life cycle and supporting equality between men and women, is what has been described

68 See for example People with Disability Australia, Submission 104 and Disability Council of NSW, Submission 76. See also discussion in Chapter 8 (8.4).

69 Simon Kelly "Entering Retirement: The financial aspects" in Peter Kriesler, Michael Johnson and John Lodewijks (eds) *Essays in Heterodox Economics* Proceedings and Refereed papers Fifth Australian Society of Heterodox Economics Conference 11-12 December 2006, University of New South Wales Sydney, pp 285-297 at p 295.

70 ABS *Australian Social Trends* 2006 Cat No 4102.0 July 2006, p 30 and p 60; ABS *Measures of Australia's Progress* 2006 Cat No 1370.0 May 2006, p 54 and Marcello Gizzi and Abdul Monaem "The Health of Males in NSW" *NSW Public Health Bulletin* 2001 12, pp 322-324; and ABS *Deaths, Australia* 2004 Cat No 3302.0 December 2006, p 31.

71 See Robert A Cummins Australian Unity Wellbeing Index Survey 14.1 *Fifth Anniversary Special Report – Summarising the major findings* Australian Centre on Quality of Life Deakin University Melbourne April 2006, p 10.

72 World Economic Forum *Women's Empowerment: Measuring the global gender gap* World Economic Forum Geneva 2005, p 1.

as a shared work – valued care approach.⁷³ In HREOC's view, shared work – valued care means sharing unpaid and paid work better across the labour market and the community, in addition to better sharing between individual men and women. It means sharing the work of caring between families, the community and public institutions, and it requires governments to take a primary role in sharing the costs of care through the provision of accessible, affordable and high quality care and support services for both children and adults who need them.⁷⁴ These include child care services, aged care services, specialist disability services and programs which provide personal and domestic care for older people and people with disability living in the community. It also means valuing the caring work of employees, ensuring quality employment for those who provide care and sharing the responsibility for care between individuals and quality service providers. It is a guiding principle for a policy response to paid work and family that recognises that the traditional breadwinner-full time home carer model is no longer the most common work and care arrangement in Australia.

A shared work – valued care approach is not a single model for dealing with paid work and care, but a flexible approach that recognises that preferred arrangements will change over time as family/carer responsibilities and family circumstances change. The framework is above all an integrated approach that considers balancing paid work and care as a task which requires a collective and ongoing response from a range of social participants.

To move towards this we must consider in what ways governments, employers, policy makers, non-government organisations and individual families create both barriers and supports for a model of shared work and care, and ways in which different family types can negotiate these. Government has a major role in establishing and supporting this framework, as well as a responsibility to ensure that it is implemented across the relevant portfolios.

Recent research into the policy frameworks which best facilitate a balance between paid work and family/carer responsibilities suggests that there are three key components of these frameworks: public family leave policies, working time regulations, and public systems of early childhood education and care.⁷⁵

73 See Eileen Appelbaum, Thomas Bailey, Peter Berg and Arne L Kallenberg *Shared Work-Valued Care: New norms for organizing market work and unpaid care work* Economic Policy Institute Washington DC 2002, p vii. "Shared work" has many meanings according to the authors, but includes the following: sharing paid work among people through shorter working weeks, reduced hours and flexible schedules; sharing access to good jobs; recognising that equal access in paid work requires recognition that unpaid care work is work; and that men and women must share the important work of providing care. "Valued care" also has many meanings, including: employees' access to flexible scheduling so they can take greater control of their time at and away from paid work; child care and elder care shared as private and public responsibilities; high quality care services; and decent working conditions for paid carers (pp 14-15). The model replaces what the authors characterise as the "unencumbered worker – devalued caregiver" model (pp 4-13).

74 Eileen Appelbaum, Thomas Bailey, Peter Berg and Arne L Kallenberg *Shared Work-Valued Care: New norms for organizing market work and unpaid care work* Economic Policy Institute Washington DC 2002, p viii.

75 Janet C Gornick and Marcia K Meyers "Welfare Regimes in Relation to Paid Work and Care" November 2005 Paper from the Conference *Reforms of Social Protection in the Countries of Continental Europe and of the South* French Ministry for Health and Solidarity (SICOM) 19-20 December 2005, p 3. The OECD similarly identifies the three major areas of policy which contribute to helping families combine work and family life as child care, leave and part time work: OECD *Babies and Bosses: Reconciling work and family life* OECD Paris 2002, p 16. Current Australian research also reinforces these themes – arrangements which have been identified as promoting work-life balance include income security, employment security, access to care arrangements, access to flexible leave (including standard leave entitlements and parental leave), flexible working time arrangements, control over unfriendly working hours, access to training and career path and innovative work arrangements: John Burgess, Lindy Henderson and Glenda Strachan "I Just Juggle: Work and Family Balance in Australian Organisations" Paper presented at the "Our Work... Our Lives" National Conference on Women and Industrial Relations 12-14 July 2006.

Further, what is required is an approach based on a universal caregiver idea which encourages both men and women to share care and paid work and which would include a combination of shorter or more flexible working hours with informal care and locally organised but publicly supported care services.⁷⁶

This model also fits well with recommendations from HREOC's National Inquiry into Employment and Disability that advocate guidelines and campaigns to encourage workplace flexibilities to meet the needs of people with disability, as well as responding to the needs of other employees such as carers and older workers.⁷⁷

Australian research supports this approach by suggesting that not only do we need to respond to the peak loads at particular points in the life course, but that the policy measures that are adopted in relation to family allowances or tax concessions for parents, access to care services and employment based measures will be most effective when men are encouraged to reduce their paid work and participate in caring.⁷⁸ Encouraging and supporting equality between men and women, as noted throughout the *Striking the Balance* discussion paper, is a key part of this process.

Individual views on the shared work – valued care approach may differ according to the variety of choices that Australian families want to make about managing their competing responsibilities. However, as the following chapters make clear, HREOC's public consultation process has revealed widespread agreement on the principles embodied by this model. The question of how to implement these principles is therefore the focus of the remainder of this report.

2.4 Paid and unpaid work and the national interest: Prosperity and social wellbeing

The time pressures that many Australian families experience in relation to balancing paid work and care indicate that despite more than a decade of unbroken economic growth, including increases in real incomes and national wealth and improved productivity growth,⁷⁹ further consideration has to be given to the measure of our social wellbeing. While productivity and prosperity are important goals, they are not enough in themselves to create a healthy and cohesive community which values the wellbeing of its citizens, supports strong relationships and values both paid and unpaid work.

Prosperity: Making Australians time-rich

While prosperity is easily understood and appreciated as the outcome of good economic management, our national and social wellbeing is a more complex construction with a number of components such as mental and physical health and a sense of connectedness to others.

A truly prosperous society is one that values time as well as money, whether this be time spent with children or other relatives in leisure activities, time spent working voluntarily within community or, as noted throughout the paper, time spent meeting day-to-day care needs.

76 Fiona Williams *What matters to people in their family lives and personal relationships? From everyday practical ethics to a political ethic of care* Presentation to the Social Policy Research Centre University of NSW 7 March 2006, pp 16-17.

77 Human Rights and Equal Opportunity Commission *WORKability II: Solutions Final Report of the National Enquiry into Employment and Disability* HREOC Sydney December 2005, p 130.

78 Michael Bittman "Taking Care of Working Parents: Time, money and wellbeing" Paper presented to the Academy of the Social Sciences in Australia Workshop *Taking Care of Work and Family: Policy Agendas for Australia* University of Sydney 17-18 November 2005.

79 ABS *Measures of Australia's Progress* 2006 Cat No 1370.0 May 2006, pp 60-67; pp 74-82; pp 86-91.

Criticism of financial measures of success emerged as a strong theme within submissions and in HREOC focus groups and consultations. Many people identified “keeping up with the Joneses” as a barrier to a good balance between paid work and family/carer responsibilities because of the financial burden it places on family budgets.⁸⁰ Recent discussions about “affluenza” also evidence a growing concern about quality of life and a desire for individual and community values that emphasise social prosperity as well as economic prosperity.⁸¹

As the Treasurer has argued, the three “P”s – the three factors that contribute to prosperity – are population, participation and productivity.⁸² These factors are all influenced by how well we balance our paid work and care arrangements. Greater equality in both how families manage these responsibilities and how our society bears responsibility for them will be the key challenge for our continuing economic prosperity as well as the wellbeing of our communities and our citizens.

Social wellbeing

While many Australians appreciate the productivity and prosperity that have resulted from the social and economic changes of the past decades, the lack of time for care and community activities is one effect that they do not enjoy. Social wellbeing can be assessed through examining such objective measures as access to economic resources, adequate housing, health services, education and freedom from discrimination and violence. Social wellbeing can also be measured by examining more subjective measures such as social inclusion and connectedness and individuals’ feelings of happiness and personal wellbeing. Some of the possible determinants of social wellbeing include

- Gender equality
- Family care of older people requiring care
- Maximising children’s health and welfare
- Support for families and people in vulnerable situations
- Alleviating poverty and disadvantage
- Supportive working conditions and productive and harmonious workplaces
- Community connectedness.⁸³

Each of these social determinants of wellbeing is enhanced by a commitment to sharing work and valuing care. They require investment and sound management and are thus as much the responsibility of government as economic management.

Research confirms the substantial cost to both employers and governments of not responding to conflicts between paid work and family/carer responsibilities, with a recent large scale Canadian study finding that high levels of conflict had a negative impact on employers’ bottom lines and increased demands on Canada’s health care system by billions of dollars each year.⁸⁴

80 Community consultation, NSW Central Coast, 4 August 2005; Community consultation, Kalgoorlie, 12 September 2005; Employer consultation, Darwin, 22 September 2005; Community consultation, Perth, 13 September 2005; Kay Pearson, Submission 3; and Jenny Smith, Submission 8.

81 See, for example, discussion in Clive Hamilton and Richard Denniss *Affluenza: When too much is never enough* Allen and Unwin Crows Nest, 2005.

82 The Hon Peter Costello MP Treasurer “The Paths to Increasing Australian Prosperity” Address to the Australian Financial Review Leaders’ Luncheon Sydney 7 August 2002.

83 Australian, State and Territory Governments currently undertake a wide range of programs focusing on these areas.

84 A report for Heath Canada estimated the health care-related costs of high work–life conflict at approximately \$6 billion a year attributable to high role overload, \$5 billion a year to high caregiver strain, \$2.8 billion to high work to family interference and half a billion dollars to high family to work interference: Chris Higgins, Linda Duxbury and Karen Johnson *Exploring the Link Between Work-Life Conflict and Demands on Canada’s Health Care System* Public Health Agency of Canada 2004, p 51.

Not only do poor levels of wellbeing immediately impact on individual quality of life, they also incur costs for society as a whole through the additional taxation required to raise them to more acceptable levels and indeed through the cost of low levels of wellbeing of some citizens being borne by others (the relationship between poor levels of wellbeing and crime being one obvious example). In other words, wellbeing is an important part of the national interest and in this sense Australia's overall prosperity is as much the outcome of investment in wellbeing as it is economic management. In any case it is pointless to pursue prosperity and wellbeing outcomes as if these were independent of each other. The national interest is best served by integrating social and economic policy.

2.5 Conclusion

Reconciling paid work and family/carer responsibilities is central to the social and economic progress of the nation. The balance between paid and unpaid responsibilities directly affects many aspects of family and individual wellbeing and in order to ensure the best national outcome we clearly need to start taking the need for balance into greater account. This will not be possible unless we make unpaid caring responsibilities a greater priority and incorporate them into a social vision that will help us meet our paid work and care responsibilities across the life course. In order to develop a workable model for balancing paid work and family/carer responsibilities we need to develop a new framework centred around a guiding principle of shared work – valued care that will collectively and individually meet the social and demographic challenges currently facing Australia.

The interaction between the factors that affect the balance of paid work and family/carer responsibilities is complex and multi-layered. A central aim of this paper is to propose a series of actions to address these factors. As indicated by our list of recommendations, some of the areas that HREOC believes require change can be addressed relatively easily, by the shared efforts of various social participants in the paid work and family debate. In other areas however, there is a pressing need for more information and for review and consolidation of current policy and activities. The recommendations in this paper address the key areas that have been raised consistently with HREOC as blockages to adequate balance between paid work and family/carer responsibilities.

Chapter 3: Legal protection for workers with family and carer responsibilities

3.1 Introduction

Men and women with family and carer responsibilities may find themselves disadvantaged in the workplace when compared to workers without these responsibilities.

At a federal level, workers have some protection against discrimination on the grounds of family and carer responsibilities, but these protections have significant limitations.

This chapter considers the existing protections for workers with family and carer responsibilities (focusing on the area of federal discrimination law); the limitations of these laws; and the need for law reform to extend greater protection to these workers.

3.2 Australia's human rights obligations for workers with family and carer responsibilities

Australia has obligations at both domestic and international levels for workers with family and carer responsibilities.

International legal obligations

Australia has agreed to be bound by a number of International human rights treaties which protect the principles of equality and non discrimination and the rights of people with family and carer responsibilities.

- ***Convention (No 156) Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities***⁸⁵

The *Convention (No 156) Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities* (ILO 156)⁸⁶ deals most directly with this area. Amongst other things, ILO 156 obliges Australia to:

- take account of the needs of workers with family responsibilities in terms and conditions of employment;⁸⁷ and
- ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.⁸⁸

85 Opened for signature 23 June 1981, 1331 UNTS 295 (entered into force 11 August 1983), ratified by Australia 30 March 1990.

86 Opened for signature 23 June 1981, 1331 UNTS 295 (entered into force 11 August 1983), ratified by Australia 30 March 1990.

87 Article 4(b).

88 Article 8.

The provisions of the Sex Discrimination Act that proscribe discrimination on the grounds of family responsibilities were introduced in 1992 to give effect to certain provisions of ILO 156.⁸⁹

- ***Convention on the Elimination of All Forms of Discrimination Against Women***

Family responsibilities are dealt with in the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW).⁹⁰ CEDAW requires governments to “take all appropriate measures to eliminate discrimination against women in ... employment”⁹¹ and to “encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities”.⁹²

The Preamble to CEDAW states that:

... the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole ...

The preamble recognises:

... the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children ...

[and that] ... a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women ...⁹³

Relevantly, the objects of the Sex Discrimination Act include to give effect to certain provisions of CEDAW.⁹⁴

- ***Convention (No 111) Concerning Discrimination in respect of Employment and Occupation***

Principles of non-discrimination in employment are also dealt with in the *Convention (No 111) Concerning Discrimination in respect of Employment and Occupation* (ILO 111).⁹⁵ ILO 111 is scheduled to the HREOC Act and is aimed at preventing and eliminating discrimination in employment on a number of grounds, including sex. “Discrimination” for the purposes of ILO 111 is defined to include:

(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; and

89 Explanatory Memorandum, Human Rights and Equal Opportunity Legislation Amendment Bill (No 2) 1992 (Cth) [6]-[8]. The *Workplace Relations Act 1996* (Cth) also contains provisions aimed at preventing and eliminating discrimination against employees on the basis of family responsibilities. These provisions reflect those introduced into earlier Australian workplace relations law in 1993 via the *Industrial Relations Reform Act 1993* (Cth).

90 Opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981), ratified by Australia 28 July 1983. The Convention is set out in the Schedule to the *Sex Discrimination Act 1984* (Cth).

91 Article 11(1).

92 Article 11(2)(c).

93 Preamble to the *Convention on the Elimination of All Forms of Discrimination Against Women*.

94 Section 3(a) of the *Sex Discrimination Act 1984* (Cth).

95 Opened for signature 25 June 1958, 362 UNTS 31 (entered into force 15 June 1960), ratified by Australia 15 June 1973, entered into force for Australia 15 June 1974.

(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation ...⁹⁶

Further, ILO 111 provides that countries can add categories to the list of prohibited distinctions. In 1989 Australia added discrimination on the grounds of age and discrimination of mental, intellectual or psychiatric disability or physical disability to that list when the *Human Rights and Equal Opportunity Regulations* were proclaimed.⁹⁷

Article 5(2) of ILO 111 provides that governments may determine that special measures, designed to meet the particular requirements of persons who, for reasons such as sex, age or family responsibilities, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.

• **Convention on the Rights of the Child**

The lives of children are inextricably bound up with the lives of their family. The *Convention on Rights of the Child* (CRC)⁹⁸ sets out obligations that are relevant to the area of paid work and family responsibilities. The preamble to the CRC recognises that:

... the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community...

The Committee on the Rights of the Child, which monitors compliance with the CRC, has emphasised that “the human rights of children cannot be realized independently from the human rights of their parents, or in isolation from society at large”.⁹⁹

When workers are discriminated against on the basis of their family responsibilities this may have a negative impact on the children who they are caring for. In some circumstances, discrimination against a child’s parent may arguably result in discrimination against the child. Relevantly, article 2(2) of the CRC states:

States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.

Helping families to better balance paid work and family responsibilities is also consistent with the “best interests of the child” principle set out in article 3(1) of the CRC. Article 3(1) provides:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Under article 5, Australia must respect the responsibilities and duties of parents.¹⁰⁰ Article 18(1) of the CRC specifically recognises that both parents have “common responsibilities for the upbringing and development of the child” and that “the best interests of the child will be their basic concern”. Under article 18(2) Australia must “render appropriate assistance to parents and legal guardians in the performance of

96 Article 1.

97 *Human Rights and Equal Opportunity Regulations*, s4(a)(i)(vi)(viii).

98 *Convention on the Rights of the Child*, opened for signature on 20 November 1989, 1577 UNTS3 (entered into force 2 September 1990), ratified by Australia 17 December 1990, entered into force for Australia 16 January 1991.

99 *Concluding Observations on Uzbekistan*, CRC, CRC/C/111 (2001) 117 at para 558.

100 UNICEF *Implementation Handbook for the Convention on the Rights of the Child* 2002, p 86.

their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children". Article 18(3) also obligates State Parties to take appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities.

- ***International Covenant on Civil and Political Rights***

Under the *International Covenant on Civil and Political Rights* (ICCPR)¹⁰¹ Australia must ensure that women and men enjoy their human rights equally and without discrimination and are equal before the law (articles 2 and 26). Article 23(1) of the ICCPR recognises that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State".

- ***International Covenant on Economic, Social and Cultural Rights***

Article 2(2) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)¹⁰² states that all people should enjoy the rights set out in the ICESCR without discrimination. As well as expressly prohibiting discrimination on the basis of sex, ICESCR prohibits discrimination on the basis of age under the grounds of "other status".¹⁰³ The Committee on Economic, Social and Cultural Rights, the committee that monitors compliance with the ICESCR, has observed that "older workers who have not yet reached retirement age, often encounter problems in finding and keeping jobs" and stressed "the need for measures to prevent discrimination on grounds of age in employment and occupation".¹⁰⁴

Article 10(1) of the ICESCR provides that State Parties recognise that "the widest possible protection and assistance should be accorded to the family", particularly "while it is responsible for the care and education of dependent children". Article 10(2) recognises that "special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits".

Article 7 of the ICESCR provides that States Parties must recognise the right of everyone to just and favourable conditions of work, including fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work and remuneration which provides a decent living for workers and their families. Article 7 sets out the right to safe and healthy working conditions, equality opportunity in promotion, and the right to "rest, leisure and reasonable limitation of working hours".

Developing areas of international human rights law

Human rights law is developing to better address issues such as the needs of older people and the rights of people with disability.

101 *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), ratified by Australia 13 August 1980, entered into force in Australia 13 November 1980.

102 *International Covenant on Economic, Social and Cultural Rights*, opened for signature December 1966, 999 UNTS 3 (entered into force 3 January 1976), ratified by Australia 10 December 1975, entered into force for Australia 10 March 1976.

103 The Committee on Economic, Social and Cultural Rights, the committee that monitors compliance with the ICESCR, has stated that while article 2(2) does not specifically prohibit discrimination on the basis of age, "the prohibition of discrimination on the grounds of 'other status' could be interpreted as applying to age". See Committee on Economic, Social and Cultural Rights, General Comment No. 6, The economic, social and cultural rights of older persons General comment No. 6, The economic, social and cultural rights of older persons (Thirteenth session, 1995), U.N. Doc. E/1996/22 at 20 (1996).

104 *ibid.*, 22. See also ILO Recommendation 162 (1980) concerning Older Workers, 3-10.

As set out above, under the ILO Convention 111 Australia has an obligation to prevent and eliminate discrimination in employment that occurs on the basis of age and disability. In addition to this protection, the *Convention on the Rights of Persons with Disabilities*,¹⁰⁵ which was adopted by the United Nations General Assembly in 2006, prohibits all discrimination on the basis of disability.

The United Nations have also adopted a number of non-binding principles which recognise the rights and needs of older people. In 1991, the United Nations General Assembly adopted Principles for Older People. These principles highlight the importance of the role of the family in providing care for older people.¹⁰⁶

In 2002, the UN Second World Assembly on Ageing adopted the Madrid Political Declaration and International Plan of Action on Ageing (MIPAA).¹⁰⁷ The purpose of MIPAA is to improve the social and economic conditions of older people. Relevantly, MIPAA recognises “the crucial importance of families, intergenerational interdependence, solidarity and reciprocity” and the “provision of health care, support and social protection for older persons”.

Federal discrimination law

Some of the international legal obligations discussed above provide, in part, the constitutional basis for the federal discrimination laws.

At the federal level, the government has enacted the *Sex Discrimination Act 1984* (Cth) (Sex Discrimination Act) and the *Disability Discrimination Act 1992* (Cth) (Disability Discrimination Act). These laws provide some protection against discrimination for workers with family and carer responsibilities.

The Sex Discrimination Act makes it unlawful to discriminate on the grounds of sex,¹⁰⁸ marital status,¹⁰⁹ pregnancy or potential pregnancy¹¹⁰ in certain defined areas of public life, including employment, education and the provision of goods, services and facilities.¹¹¹

The Sex Discrimination Act also makes it unlawful to discriminate against a person on the ground of their family responsibilities by dismissing them from employment.¹¹²

The family responsibilities provisions were inserted into the Sex Discrimination Act in 1992 to give effect to Article 8 of ILO 156 which obliges Australia to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.¹¹³

HREOC notes that the family responsibilities provisions were introduced in 1992 as a first stage of Australia’s implementation of ILO 156. In enacting these limited provisions,

105 *Convention on the Rights of Persons with Disabilities* (not yet in force).

106 United Nations Principles for Older Persons, G.A. Res. 46/91, U.N. GAOR, 46th Sess., 74th plen. mtg., Annex 1, U.N. Doc. A/RES/46/91 (1991).

107 United Nations *Report of the Second World Assembly on Ageing Madrid 8-12 April 2002* A/CONF.197/9 United Nations New York 2002 pp 1-43.

108 Section 5 of the *Sex Discrimination Act 1984* (Cth).

109 Section 6 of the *Sex Discrimination Act 1984* (Cth).

110 Section 7 of the *Sex Discrimination Act 1984* (Cth).

111 Sections 14-27 of the *Sex Discrimination Act 1984* (Cth).

112 Sections 7A and 14(3A) of the *Sex Discrimination Act 1984* (Cth).

113 Explanatory Memorandum, Human Rights and Equal Opportunity Legislation Amendment Bill (No 2) 1992 (Cth) [6]-[8]. The *Workplace Relations Act 1996* (Cth) (Workplace Relations Act) also contains provisions aimed at preventing and eliminating discrimination against employees on the basis of family responsibilities. These provisions reflect those introduced into earlier Australian workplace relations law in 1993 via the *Industrial Relations Reform Act 1993* (Cth).

Parliament contemplated that wider provisions would be enacted at a later stage after further consultation.¹¹⁴ Amongst other things, ILO 156 obliges Australia to:

- take account of the needs of workers with family responsibilities in terms and conditions of employment;¹¹⁵ and
- make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.¹¹⁶

However, neither the Sex Discrimination Act or the Workplace Relations Act fully implements ILO 156, and more needs to be done to meet these obligations.¹¹⁷

The Disability Discrimination Act provides some protection against discrimination for workers with disability who may also have family or carer responsibilities and also those workers who are “associates” of people with disability. The term “associate” is defined in the Act to include, *inter alia*, a carer.¹¹⁸ The Disability Discrimination Act makes it unlawful for an employer to discriminate against a person on the ground of the other person’s disability or a disability of any of that other person’s associates.¹¹⁹

- in the arrangements made for determining who should be offered employment;
- in determining who should be offered employment;
- in the terms or conditions of employment;
- by denying the employee access, or limiting the employee’s access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment;
- by dismissing the employee; or
- by subjecting the employee to any other detriment.

However, the Disability Discrimination Act also provides the employer with a defence to a claim of unlawful discrimination in circumstances where:¹²⁰

- a person is unable to carry out the inherent requirements of the particular employment; and
- unjustifiable hardship would be imposed upon an employer in order for them to avoid discriminating against the aggrieved person.

Along with these federal discrimination laws, the States and Territories have enacted various laws which prohibit discrimination including on the grounds of sex, parental status and family and carer responsibilities.¹²¹

114 See Second Reading Speech to the Human Rights and Equal Opportunity Legislation Amendment Bill (No 2) 1992 *House of Representatives Hansard* 3 November 1992, pp 2399-400.

115 Article 4(b).

116 Article 3.

117 The implementation of ILO 156 was considered by the Australian Government following recommendations of the *Half Way to Equal* report (House of Representatives Standing Committee on Legal and Constitutional Affairs *Half Way to Equal: Report of the inquiry into equal opportunity and equal status for women in Australia* AGPS Canberra 1992) in a 1993 issues paper: Human Rights Branch, Attorney-General’s Department, Legislation Working Group on the ILO 156 Interdepartmental Committee *Workers with Family Responsibilities: Discrimination Legislation: An issues paper* Attorney-General’s Department Canberra 1993.

118 Section 4 of the *Disability Discrimination Act 1992* (Cth).

119 Sections 15(1) and (2) of the *Disability Discrimination Act 1992* (Cth).

120 Section 15(4) of the *Disability Discrimination Act 1992* (Cth).

121 *Anti-Discrimination Act 1977* (NSW), *Equal Opportunity Act 1984* (WA), *Equal Opportunity Act 1984* (SA), *Anti-Discrimination Act 1991* (Qld), *Discrimination Act 1991* (ACT), *Equal Opportunity Act 1995* (Vic), *Anti-Discrimination Act 1998* (Tas) and *Anti-Discrimination Act 1992* (NT). A detailed consideration of these State and Territory laws is outside the scope of this paper.

The importance of federal discrimination law

The *Striking the Balance* discussion paper asked whether anti-discrimination legislation assists men and women to achieve a better balance between their paid work and care responsibilities, and whether any amendments were necessary.¹²²

Submissions responding to this question agreed on the importance of anti-discrimination laws in addressing inequality between workers who have family/carer responsibilities and those who do not. The submissions highlighted the importance of anti-discrimination laws in two principal respects.

- First, anti-discrimination laws provide a legal avenue for redress for discriminatory acts and practices.

Submissions from the Equal Opportunity Commission Victoria, the Queensland Government and Belinda Smith stated that individual complaint mechanisms are important as they provide opportunities for workers to seek individual redress for discrimination in the workplace.¹²³

- Second, anti-discrimination laws promote principles of non-discrimination as they are a public policy statement of the right to equality.

As Beth Gaze noted, the Sex Discrimination Act is significant as a public condemnation of sex discrimination, understanding it “not just as something that happen[s], but as something unlawful”.¹²⁴ Similarly, Belinda Smith stated that anti-discrimination laws promote “non-discrimination through the persuasive, normative power of a legislated, public policy statement of the right to equality.”¹²⁵

The twin capacities of anti-discrimination laws to provide an avenue of legal redress for discriminatory acts and to influence social institutions and individuals by promoting principles of non-discrimination are central to the considerations of law reform in this chapter.

3.3 Limitations of federal discrimination law

Despite their important role in supporting workers with family and carer responsibilities, HREOC is concerned that the existing protections for workers with family and carer responsibilities have significant limitations. These limitations are set out below.

122 *Striking the Balance* discussion paper, p 88 and p 134: Question 23: Can anti-discrimination systems assist men and women to better balance their paid work and family responsibilities? Why or why not?

123 Anti-Discrimination Commission Queensland cited by Queensland Government, Submission 166, p 48; Equal Opportunity Commission Victoria, Submission 125, p 20; Belinda Smith, Submission 106.

124 Beth Gaze “The Sex Discrimination Act after Twenty Years: Achievements, disappointments, disillusionments and alternatives” in *Women, Work and Equity Forum* University of Sydney, Sydney 1 August 2004. See also the citation and discussion in Sara Charlesworth, Submission 98, p 13.

125 Belinda Smith, Submission 106, p 2.

The family responsibilities provisions of the Sex Discrimination Act are limited

As set out above, the Sex Discrimination Act makes it unlawful to “directly” discriminate against an employee on the basis of their family responsibilities by dismissing the employee.¹²⁶

The family responsibilities provisions of the Sex Discrimination Act are more limited than the other grounds of discrimination.¹²⁷ The provisions:

- only apply to discrimination that results in dismissal from employment;
- are limited to “direct” discrimination, leaving no protection against “indirect” discrimination (Indirect discrimination occurs when a person imposes a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons with family responsibilities. For example, a prohibition on part time work will disadvantage workers who cannot work full time because of their family responsibilities);
- only apply to employment (family responsibilities discrimination is not unlawful in any other area of public life, for example, education or access to goods and services); and
- may not protect all caring relationships.¹²⁸

The other grounds of discrimination in the Sex Discrimination Act (including sex and pregnancy) offer protection against both “direct” and “indirect” discrimination, provide redress for discriminatory treatment in employment generally and extend to a variety of areas of public life, including for example, education.

It is unsurprising, therefore, that the family responsibilities provisions are little used.

Indirect sex discrimination provisions and men

Although both men and women underutilise the family responsibilities provisions of the Sex Discrimination Act, women are able to rely on the indirect sex discrimination provisions of the Act as an alternative form of redress for disadvantage arising from their family/carer responsibilities. This is because as women continue to carry out the bulk of unpaid caring work, acts of discrimination which disproportionately impact on people with family responsibilities, disproportionately impact on women as a group.¹²⁹

126 Sections 7A and 14(3A) of the *Sex Discrimination Act 1984* (Cth). Section 7A provides:
For the purposes of this Act, an employer discriminates against an employee on the ground of the employee’s family responsibilities if:

- (a) the employer treats the employee less favourably than the employer treats, or would treat, a person without family responsibilities in circumstances that are the same or not materially different; and
- (b) the less favourable treatment is by reason of:
 - (i) the family responsibilities of the employee; or
 - (ii) a characteristic that appertains generally to persons with family responsibilities; or
 - (iii) a characteristic that is generally imputed to persons with family responsibilities.

127 See the discussion in *Striking the Balance* discussion paper at p 83.

128 Family responsibilities are defined to include the responsibility to care for or support a “dependent child” or an “immediate family member”. “Dependent child” includes an adopted child, a step-child or an ex-nuptial child who is wholly or substantially dependent on the employee. “Immediate family member” includes a spouse, adult child, parent, grandparent, grandchild or sibling of the employee or of a spouse of the employee: sections 4 and 4A *Sex Discrimination Act 1984* (Cth). The definition of de facto spouse excludes a same sex partner: section 4 *Sex Discrimination Act 1984* (Cth). This omission is coupled with weak protection at the federal level against discrimination on the ground of sexuality under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth). These provisions reflect the general omission at the federal level to protect against discrimination on the basis of sexuality.

129 See also *Striking the Balance* discussion paper p 86.

In a series of federal cases, women who have encountered problems accessing part time work or other flexible work arrangements upon their return to work from maternity leave have successfully argued that a requirement to work full time and without flexibility as to hours of work is a condition, requirement or practice which has the effect of disadvantaging women. The courts have accepted, sometimes as a matter of judicial notice without any specific evidence, that this disadvantage stems from the fact that women are more likely to require flexible work arrangements to meet their family/carer responsibilities.¹³⁰

While these cases provide a broader platform for redress for women, men are confined to relying on the more limited family responsibilities provisions alone.

In addition, the result of women's reliance on indirect sex discrimination provisions may be that the law as it stands further entrenches the position of women as unpaid caregivers by linking only women to family responsibilities.¹³¹ This may in turn further discourage the more equal sharing of family/carer responsibilities and limit women's workplace participation.

These potential difficulties were identified in the submissions. For example, the Men's Information and Support Centre noted that the restrictions on men's use of the indirect sex provisions of the Sex Discrimination Act "serves to entrench traditional 'breadwinning' roles as the responsibility of men and discourages a more equal sharing of paid work".¹³²

Men's more limited use of the Sex Discrimination Act generally

The *Striking the Balance* discussion paper noted that despite the fact that the family responsibilities provisions of the Sex Discrimination Act are equally available to both men and women, men have not generally made use of them.¹³³ The *Striking the Balance* discussion paper asked why men do not make more use of the family responsibilities provisions of the Sex Discrimination Act.¹³⁴

Some submissions pointed to the language of the Sex Discrimination Act and perceptions about its application as barriers to men seeking greater assistance from it. One submission argued that: "In its current form and interpretation, it [the Sex Discrimination Act] reinforces stereotypes and traditional role assumptions".¹³⁵

Submissions also noted a number of related reasons for men's low usage of the Sex Discrimination Act. These included the suggestion that as a result of the restrictions on men's use of the indirect sex provisions (detailed above), men see their claims as less viable.¹³⁶ Another suggestion was that men are less likely to request family-friendly work arrangements (and thus less likely to be denied them) or alternatively, more

130 *Hickie v Hunt & Hunt* (1998) EOC 92-210; *Escobar v Rainbow Printing Pty Ltd (No 2)* [2002] FMCA 122; and *Mayor v Australian Nuclear Science and Technology Organisation* [2003] FMCA 209.

131 This difficulty arose for consideration in *Howe v QANTAS Ltd* (2004) 188 FLR 1. Driver FM stated at 147: "the present state of Australian society shows that women are the dominant caregivers to young children. While that position remains (and it may well change over time) s 5(2) of the SDA operates to protect women against indirect discrimination in the performance of that care giving role": John von Doussa QC and Craig Lenehan "Barbequed or Burned? Flexibility in work arrangements and the Sex Discrimination Act" (2004) 27(3) UNSWLJ 892, p 902.

132 Men's Information and Support Centre (SA), Submission 81, p 23.

133 See *Striking the Balance* discussion paper, pp 85-86. Of 14 complaints under the family responsibilities provisions under the *Sex Discrimination Act 1984* in 2003-2004, one was made by a man; of 20 in 2004-2005, four were made by men; and of 25 in 2005-2006, five were made by men.

134 *Striking the Balance* discussion paper, p 88 and p 134: Question 24.

135 Nadine Zacharias, Submission 53, p 2.

136 Belinda Smith, Submission 106.

able to negotiate directly with their employers about problems as they have more bargaining power.¹³⁷

Of course, it is also possible that men's limited use of the family responsibilities provisions reflects the reality that women in fact bear the major responsibility for caring in our society. The ACT Human Rights Office (on behalf of six State and Territory human rights agencies) argued that the fact that men cannot use the sex discrimination provisions to ground an indirect discrimination claim relating to family responsibilities:

is more a reflection of the continuing gender inequality at home, than of a defect in the legislation ... On the other hand, it means the SD Act has limited leverage as a tool for change, and there is no justification for limiting the family responsibilities ground to direct discrimination.¹³⁸

General limitations of anti-discrimination legislative schemes

Submissions also identified some general limitations within anti-discrimination legislative schemes, particularly with aspects of the complaints process.¹³⁹

For example, one submission referred to the burden on the individual complainant of collecting the necessary evidence.

Gathering sufficient evidence to prove on the balance of probabilities that a worker's family responsibilities was a substantial reason for an unfavourable decision by an employer, or gathering evidence to show a term or condition of work being imposed by an employer is not reasonable ... can often be a very difficult task.¹⁴⁰

A number of other submissions argued that while the complaints process is an important remedy for individuals who feel aggrieved by discriminatory conduct, it can fail to promote systemic change.

The Women Lawyers Association of NSW noted that a limitation of the Sex Discrimination Act is that it "only addresses individual acts of discrimination within specific fields of activity for which a person may make a complaint" and that it "it is unable to challenge directly gender bias or systemic discrimination in the context of the law."¹⁴¹ Similarly, the Equal Opportunity Commission of Victoria noted that the complaints process is "not designed to achieve large scale change or prevent repeated instances of discrimination of the same type".¹⁴²

HREOC recognises that making a complaint of discrimination requires commitment on the part of the complainant as well as a significant commitment of time, and if a matter is pursued to the courts, money. It is true that individual complaints do not in themselves require an ongoing systemic change either by the respondent or across industries. However, the power of an individual complaint to effect change over time by establishing better practices should not be underestimated, for example, through conciliated outcomes and establishing legal precedents which promote flexible work practices.

137 Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia and Equal Opportunity Commission of South Australia, Submission 117, p 11.

138 *ibid*, p 11.

139 In response to Question 26: Can an individual complaints mechanism adequately deal with discrimination on the basis of family responsibilities? If not, what other changes may be necessary? *Striking the Balance* discussion paper, p 88 and p 134.

140 Anti-Discrimination Commission Queensland cited by Queensland Government, Submission 166, p 48.

141 Women Lawyers Association of New South Wales, Submission 112, p 6.

142 Equal Opportunity Commission Victoria, Submission 125, p 20.

HREOC agrees with the statement of the Anti-Discrimination Commission Queensland that while the complaints process is “an important and significant mechanism”, it should not be “the sole means of ensuring workplaces adequately accommodate the various needs of workers with family responsibilities”.¹⁴³ In this regard, HREOC points to the importance of its education, public awareness, research and legal intervention functions which operate alongside the complaints process. These policy functions, of which this women, men, work and family project is an example, stimulate systemic change and assist to implement the norms that are established through the complaints process. These policy functions have been incorporated into HREOC’s recommendations for law reform below.

3.4 The need for law reform

Current federal anti-discrimination law provides insufficient protection for men and women workers with family and carer responsibilities, and a limited platform to support and promote systemic change.

There are a number of possibilities for expanding the protections available to these workers. The options canvassed during the *Striking the Balance* submission process are set out below, together with HREOC’s recommendations as to the most appropriate law reform.

Extending the family responsibilities provisions

For the most part, submissions to HREOC strongly supported extending the family responsibilities provisions of the Sex Discrimination Act to remove the existing limitations on these provisions, as set out above in section 3.3.

Submissions supported extending the family responsibilities provisions in the following respects.

- To make unlawful discriminatory treatment *in all aspects of employment*, rather than restricting protection to discriminatory treatment that results in dismissal.¹⁴⁴

The Law Institute of Victoria recommended that the ground of family responsibilities discrimination should be expanded to “cover the entire area of employment rather than the current restriction to discrimination regarding termination of employment. We note that other federal anti-discrimination legislation is not similarly restricted”.¹⁴⁵ The Equal Opportunity Commission of Victoria also noted that “the pregnancy and sex discrimination provisions operate far more expansively [than family responsibilities] ...”.¹⁴⁶

- To make unlawful *indirect* family responsibilities discrimination.¹⁴⁷

143 Anti-Discrimination Commission Queensland cited by Queensland Government, Submission 166, p 48.

144 Job Watch Inc, Submission 38, pp 6-7; NSW Equal Employment Opportunity Practitioners’ Association, Submission 44, p 3-5; K Lee Adams, Submission 70; Sara Charlesworth, Submission 98, p 11; Belinda Smith, Submission 106; Women Lawyers’ Association of NSW, Submission 112, p 8; Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia and Equal Opportunity Commission of South Australia, Submission 117, p 12; Law Institute of Victoria, Submission 120; Equal Opportunity Commission Victoria, Submission 125, p 9 and p 10.

145 Law Institute of Victoria, Submission 120.

146 Equal Opportunity Commission Victoria, Submission 125, p 9.

147 Belinda Smith, Submission 106; Bronwen Burfitt, Submission 107, p 21 and p 22; Women Lawyers’ Association of NSW, Submission 112, p 7; Women’s Electoral Lobby, Submission 115, p 14; Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia and Equal Opportunity Commission of South Australia, Submission 117, p 12; Equal Opportunity Commission Victoria, Submission 125, p 9 and p 10; Queensland Government, Submission 166, p 47.

The disadvantage that workers experience because of family responsibilities is often the indirect effect of inflexible workplace practices. Work requirements that seem to be fair because they apply to all employees, such as the requirement to work overtime in order to apply for a promotion, may in fact disadvantage workers with family responsibilities.¹⁴⁸

Belinda Smith argued that in limiting family responsibilities discrimination to direct discrimination the Sex Discrimination Act “fails to address the primary forms of family responsibilities discrimination which are structural and systemic (which indirect discrimination prohibitions better address), rather than individual and blatant (which direct discrimination prohibitions best address)”.¹⁴⁹

- Extending the definition of family responsibilities to include *all forms of care* and a broad definition of family members.

Submissions advocated the extension of “family responsibilities” protection to all workers with carer responsibilities.¹⁵⁰ This would provide protection to workers based on the nature of their responsibilities rather than the more arbitrary nature of their relationship to the person requiring care.

However, not all submissions supported the extension of the family responsibilities provisions in the Sex Discrimination Act. Submissions from the business groups argued that there was no need for change to the Sex Discrimination Act.

Businesses already have a wide range of legislative and regulatory obligations to comply with. Positive education campaigns, raising awareness of employees’ rights and employers’ responsibilities are a more effective means of achieving long term change.¹⁵¹

HREOC supports the extension of the family responsibilities provisions in each of the areas discussed above.

A Family Responsibilities and Carers’ Rights Act

As set out above, HREOC heard strong support for, and itself supports, an expansion of the current family responsibilities provisions of the Sex Discrimination Act. In HREOC’s view, this would be most appropriately implemented through a separate specialised piece of legislation.¹⁵² This paper identifies the key points for inclusion in the proposed new law and full details should be developed following broad consultation.

Family responsibilities discrimination is distinct from sex discrimination and warrants its own legislative framework and policy support. Further, to include expanded family responsibilities protection in the Sex Discrimination Act may serve to entrench the idea that caring is women’s work. Despite the fact that the Sex Discrimination Act applies to both men and women, there is, as one submission pointed out, an “impression that it is primarily an Act about affirmative action for women and that family responsibilities

148 See John von Doussa QC and Craig Lenehan “Barbequed or Burned? Flexibility in work arrangements and the Sex Discrimination Act” (2004) 27(3) *UNSWLJ* 892, pp 896-901 for a discussion of how recent cases under the Sex Discrimination Act have illustrated the difficulties of confining the family responsibilities provisions to direct discrimination.

149 Belinda Smith, Submission 106.

150 Women Lawyers Association of New South Wales, Submission 112, pp 9-10.

151 Australian Industry Group, Submission 162, p 5. The Australian Chamber of Commerce and Industry, Submission 122, pp 9-10 makes a similar point.

152 HREOC received submissions that supported including the expanded family responsibilities provisions in a federal “Equality Act”. The Australian Law Reform Commission developed the model of an Equality Act in its report *Equality before the Law: Women’s Equality* (ALRC 69, Part 2, 1994). See Women Lawyers Association of New South Wales, Submission 112, p 6; Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 12; and Sara Charlesworth, Submission 98, p 11.

are a “women’s issue”.¹⁵³ Another submission suggested that the use of the word “sex” in the Act may give rise to the perception that it is only available to women and only relates to sex discrimination.¹⁵⁴

A separate Family Responsibilities and Carers’ Rights Act would expressly encompass both men and women with family and carer responsibilities. Such a specialised Act would assist in overcoming the stereotypes mentioned above, and be more accessible to men. These objectives would not be achieved if the family responsibilities provisions were extended within the Sex Discrimination Act.

As Sara Charlesworth argued, broadening the family responsibilities provisions within a framework that better assists men would have an important influence on equality between men and women within the workplace and the home as it would challenge the notion of the “ideal worker” as one unencumbered by family and carer responsibilities.¹⁵⁵ Broader provisions would not only mean greater access to redress for family responsibilities discrimination by men, it would also influence what both employees and employers consider to be discrimination and potentially have a flow on effect to gendered divisions of unpaid work.¹⁵⁶

The constitutional basis and the objectives of this new Act could be drawn from CEDAW, ILO 156, the Convention on the Rights of the Child and potentially, the Convention on the Rights of Persons with Disabilities.¹⁵⁷

The new Act would define both direct and indirect discrimination on the ground of family and carer responsibilities, and proscribe such discrimination in all areas of employment. The Act would also include a right for workers to request flexible work arrangements due to family or carer responsibilities and to have the request reasonably considered by employers. This is discussed below. The Act would require HREOC to conduct relevant educative, research and policy work, and extend *amicus curiae* and intervention functions to a Commissioner.

Recommendation 4:

That a federal *Family Responsibilities and Carers’ Rights Act* be introduced to provide protection from discrimination for employees with family and carer responsibilities and a right to request flexible work arrangements.

Recommendation 5:

That the Australian Government fund HREOC to establish a Family Responsibilities and Carers’ Rights Unit to promote the principles of the new legislation, undertake educational and promotional activities, and contribute to policy and legislative development in the area of family responsibilities discrimination and carers’ rights.

153 Women Lawyers Association of New South Wales, Submission 112, p 5.

154 NSW Equal Employment Opportunity Practitioners’ Association, Submission 44, p 3. This perception reflects a common community misconception that issues of “sex” only ever apply to women and that men are able to operate, particularly in the workplace, as “neutral” agents.

155 Sara Charlesworth, Submission 98, pp 9-13.

156 See Beth Gaze “The Sex Discrimination Act after Twenty Years: Achievements, disappointments, disillusionments and alternatives” in *Women, Work and Equity Forum* University of Sydney, Sydney 1 August 2004, cited in Sara Charlesworth, Submission 98, p 13.

157 The new Convention on the Rights of Persons with Disabilities was adopted by the UN General Assembly 13 December 2006.

Towards substantive equality: A positive duty to accommodate

Submissions argued for the inclusion in the Sex Discrimination Act of positive duties upon employers to accommodate family and carer responsibilities, similar to those recommended by the Productivity Commission in the context of the Disability Discrimination Act.¹⁵⁸

For example, K Lee Adams submitted:

As scholars have noted, anti-discrimination legislation has never been sufficient in itself to address the social and cultural problems presented by the work-life interface (Berns, 2002; Thornton, 1990). Perhaps legislation specifically directed at reasonable accommodation—enabling workers with family responsibilities to craft workable employment solutions for their situations—would provide greater scope than anti-discrimination legislation alone, which is unsuited to wide-scale restructure of work relationships.¹⁵⁹

Belinda Smith suggested that an “explicit duty of reasonable adjustment” be brought into the Sex Discrimination Act for family and carer responsibilities, arguing that a requirement to accommodate workers with family and carer responsibilities would “provide greater clarity and could have a significant normative effect”.¹⁶⁰

Further, the ACT Human Rights Office suggested that a positive duty could be imposed on public authorities. The ACT Human Rights Office submitted that the Sex Discrimination Act:

... could be amended to introduce a duty on public authorities to promote gender equality. This would benefit men, particularly by encouraging recognition of the caring role of fathers and their need to combine work and care, as well as women.¹⁶¹

The ACT Human Rights Office stated that the Committee on the Elimination of Discrimination Against Women¹⁶² has stressed that governments have a positive duty to act in order to relieve women of some of the burdens of household and child care tasks and to reduce their economic dependence on men.¹⁶³ The ACT Human Rights Office stated:

The goal must be substantive not merely formal equality, and this requires positive measures to address past discrimination and enduring stereotypes. Crucially, there should be an expectation that caring for children, the aged and infirm, for friends and relatives in times of need, is the responsibility of men and women equally. As long as this responsibility falls primarily to

158 The Productivity Commission recommended: “The *Disability Discrimination Act 1992* should be amended to include a general duty to make reasonable adjustments. Reasonable adjustments should be defined to exclude adjustments that would cause unjustifiable hardship.” *Productivity Commission Review of the Disability Discrimination Act 1992* Productivity Commission Canberra 2004, Recommendation 8.1, p 196. The Government accepted this recommendation, in part: Government Response to the Productivity Commission *Review of the Disability Discrimination Act 1992*.

159 K Lee Adams, Submission 70.

160 Belinda Smith, Submission 106.

161 Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 11. This submission references the UK’s Equality Bill, which it notes will introduce a “gender equality duty” from April 2007 requiring all public authorities to eliminate sex discrimination and promote gender equality.

162 The United Nations Committee on the Elimination of Discrimination Against Women is the expert body with responsibility for considering the progress made in the implementation of CEDAW.

163 CEDAW Committee General Recommendation 23 cited by Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 3.

women they are vulnerable to being discriminated against at work, and constrained in their employment choices and opportunities.¹⁶⁴

A right to request and a duty to consider flexible work arrangements

One specific form of positive accommodation is the provision of a right for workers with family and carer responsibilities to request flexible work arrangements with a corresponding duty on employers to reasonably consider these requests.

During the *Striking the Balance* project the Australian Industrial Relations Commission (AIRC) released its decision in the *Family Provisions* test case (August 2005).¹⁶⁵ This decision provided a range of employees covered by federal awards with a range of family-friendly entitlements, the most significant of which was a formal right to request a number of parental leave provisions – namely an additional 52 weeks of unpaid parental leave, an extension of the period of simultaneous unpaid parental leave to eight weeks and to work part time on return from parental leave until a child reaches school age. The decision provides that the employer may refuse such a request “on reasonable grounds related to the effect on the workplace or the employer’s business”.

The decision extended these entitlements to the five federal awards that were the subject of the case. Test case clauses can only be included in federal awards by a party applying for, and the AIRC subsequently granting a variation to include the clauses in an award. Between 8 August 2005 and 27 March 2006, when the *Workplace Relations Amendment (WorkChoices) Act 2005*, came into operation (which limited awards being varied to include such provisions) a total of 428 of approximately 2200 federal awards had been varied.¹⁶⁶

These provisions (with various modifications) have also flowed on to some groups of employees covered by State legislation or awards (that is, mainly State Government employees) and in two States to some State award employees who have now moved into the national system. This has occurred as a result of both State Governments introducing new legislation and State industrial tribunals issuing a general order for variation of awards following union applications. While these provisions do provide a range of employees with a right to request, the coverage of employees still remains very limited.

HREOC received strong support for such a legislated right as a useful vehicle for achieving systemic change, both in submissions and from some consultation participants.¹⁶⁷

For example, the New South Wales Equal Employment Opportunity Practitioners’ Association suggested amending “the Sex Discrimination Act to include a positive obligation on employers to accommodate an employee’s request for family friendly

164 *ibid*, p 21.

165 Australian Industrial Relations Commission *Family Provisions Decision* PR082005 8 August 2005.

166 Sue Williamson and Marian Baird “Family Provisions and Work Choices: Who can access?” (2007) *Australian Journal of Labour Law* (forthcoming).

167 Sara Charlesworth, Submission 98, p 11; Women’s Electoral Lobby Australia, Submission 115, p 8 and p 14; Jeane Wells, Submission 113, p 1; Nadine Zacharias, Submission 53, p 6; K Lee Adams, Submission 70; Disability Council of New South Wales, Submission 76, p 5; Association of Professional Engineers, Scientists and Managers Australia, Submission 108, p 6; Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 17; Law Institute of Victoria, Submission 120; Queensland Government, Submission 166, p 85; Job Watch Inc, Submission 38, p 13; Employer Consultation, Hobart, 10 August 2005; and Employer Consultation, Melbourne, 12 July 2005.

workplace practices ... unless the employer can demonstrate that accommodating such a request imposes an unjustifiable hardship".¹⁶⁸

Similarly, Job Watch Inc suggested that

Where employees returning to work from parental leave request such entitlements [flexible work arrangements], it should be an express ground of discrimination under the SDA for the employer to fail to reasonably accommodate the request. The focus of the inquiry should not be whether the employer had sound business reasons to refuse the request or how reasonable it is to make alternative arrangements ... Although business needs are to be considered also, employers must be challenged to be flexible in their thinking about workplace arrangements and be prepared to test any proposal to see whether it is workable.¹⁶⁹

Other submissions argued that any such legislation would need to be broad in scope and not limited to accommodating family responsibilities involving young children. The Disability Council of NSW recommended that the proposed legislation should be modelled on that of the United Kingdom, and be extended to include disability-related flexibility needs.¹⁷⁰ This is also a theme which has been highlighted in HREOC's National Inquiry into Employment and Disability. The kind of flexibilities which assist workers with family care responsibilities are often the same as, or very similar to, the kinds of flexibilities which may be required by people with disability in the workplace.

Not all submissions expressed support for a right for workers with family and carer responsibilities to request flexible work arrangements. Some submissions expressed concern about its effects on employers and its effect on employers approach to hiring women:

Not all jobs will be suited to part time work and there must be scope for employers to run their business in the way that they see fit. This sort of proposal could lead to women of child-bearing age being seen as less desirable employees than others.¹⁷¹

Similarly, the Australian Industry Group argued that imposing "generalised rules" for implementing paid work and family balance are counterproductive, with the potential to generate negative attitudes among employers toward the broader work/family agenda, in addition to potential discrimination against women of child-bearing age who might be perceived as too costly to employ.¹⁷²

Some employer representatives supported an employee's right to request flexible work arrangements in principle but were opposed to legislation that might penalise employers for not being able to legitimately meet these requests:

The AIRC decision in the Family Provisions Case goes far enough in ensuring there is an equal balance between an employee's entitlement to balance work and family arrangements, there is not a need for further measures or entitlements to be introduced into workplace legislation.¹⁷³

Consultations with employer representatives provided mixed responses. Two participants said that their companies already respond to requests for part time work within a reasonableness criterion, with one participant noting that a requirement can make

168 NSW Equal Employment Opportunity Practitioners' Association, Submission 44, p 4.

169 Job Watch Inc, Submission 38, p 13.

170 Disability Council of NSW, Submission 76, p 5.

171 Confidential, Submission 78, p 5.

172 Australian Industry Group, Submission 162, p 5.

173 Victorian Automobile Chamber of Commerce, Submission 179.

arrangements more difficult to accommodate: “Why create another layer of legislation, a new layer of difficulty?”¹⁷⁴

Other employers were less troubled by the prospect, particularly if the right was a right to request only, with a duty on the employer to reasonably consider it with conditions for refusal along the lines of those used in the United Kingdom legislation.¹⁷⁵ One participant highlighted the need for any such legislation to be accompanied by a supporting set of guidelines, along with consultation with business groups to avoid resistance and resentment.¹⁷⁶ A proper implementation strategy may also alleviate the concerns expressed in consultations by small business about their capacity to meet obligations under a right to request model.¹⁷⁷

HREOC supports the introduction of a legislated right for workers with family and carer responsibilities to request flexible work arrangements with a corresponding duty on employers to reasonably consider these requests.¹⁷⁸ This means that employers must be able to demonstrate that they properly investigated whether such a request could be accommodated and reached a decision fairly on the merits. HREOC considers that this right should be included in the *Family Responsibilities and Carers’ Rights Act*. The right encompasses all forms of carer responsibilities and would be available to men and women workers of all ages.

HREOC is of the view that such a right represents an appropriate balance between the legitimate business considerations of employers (as highlighted in the employer submissions discussed above) and the need for greater support for those employees with family and carer responsibilities. Such a framework imposes no obligations on any employer who is unable to meet a request due to genuine operational considerations, beyond the duty to give reasonable consideration to the request.

In so far as this proposed legislative right applies to women returning to work from maternity leave, it does not represent a significant departure from the law. A series of federal cases have considered the extent to which the Sex Discrimination Act obliges employers to meet requests made by female employees for flexible work arrangements following their return to work from maternity leave. The cases cannot be said to establish a right to flexible work arrangements as such, but they do send a strong message about the need for employers to reasonably consider such requests.¹⁷⁹ Significant factors leading to the employee’s success were a failure on the employer’s part to take time to properly understand the reasons for the employee’s request, a failure to properly investigate whether the request could be accommodated and a failure by the employer to reach its decision fairly on the merits. Accordingly, the proposed legislative right to request flexible work arrangements would provide employers with certainty with respect to these obligations.

The proposed legislative right would also require employers to reasonably consider requests made by men with family and carer responsibilities. This would provide men with much improved access to flexible work arrangements to assist them in balancing their paid work and care responsibilities. Improving men’s access to, and use of, flexible work arrangements would have an important and significant influence on equality

174 Employer consultation, Melbourne, 12 July 2005.

175 Employer Consultation, Hobart, 10 August 2005; Employer Consultation, Melbourne, 12 July 2005; Employer Consultation, Adelaide, 12 July 2006. The *Employment Rights Act 2002* (UK) s 80G(1)(b) specifies the grounds upon which a request for flexible working may be refused. These include: the burden of additional costs, detrimental effect on ability to meet customer demand, the inability to re-organise work among existing staff and the inability to recruit extra staff. See also further discussion in this chapter and in Chapter 4 (4.5, 4.6, 4.7 and 4.8).

176 Employer Consultation, Adelaide, 12 July 2006.

177 Employer Consultation, Hobart, 10 August 2005.

178 See also discussion in Chapter 4 (4.5, 4.6, 4.7 and 4.8).

179 *Hickie v Hunt & Hunt* (1998) EOC 92-210; *Escobar v Rainbow Printing Pty Ltd (No 2)* [2002] FMCA 122; and *Mayor v Australian Nuclear Science and Technology Organisation* [2003] FMCA 209.

between men and women both within the workplace and within the home. Such a right would be an important vehicle for overcoming the long standing stereotypes discussed in this paper and promoting systemic change. HREOC considers this proposed legislative change to be an important and necessary step toward creating the expectation that “caring for children, the aged and infirm, for friends and relatives in times of need, is the responsibility of men and women equally”.¹⁸⁰

Whilst HREOC acknowledges that this proposed legislative change imposes some additional obligations on employers, these obligations are balanced by considerations of reasonableness.

HREOC recommends that the introduction of this proposed legislative right be accompanied by a comprehensive education campaign to both assist in alleviating employer concerns and to encourage men and women of all ages to utilise this new right.¹⁸¹

Recommendation 6:

That the Family Responsibilities and Carers’ Rights Act include a right for workers with family and carer responsibilities to request flexible work arrangements with a corresponding duty on employers to reasonably consider these requests. Refusal to reasonably consider a request for flexible work arrangements could then be the subject of a complaint to HREOC.

3.5 Conclusion

The Sex Discrimination Act has been used to address the inequality that exists between women and men, particularly in the workplace, for over two decades. It was introduced into Parliament primarily to implement the objectives of CEDAW.

It is clear from the submissions and consultations that the Sex Discrimination Act does not fit all the circumstances around the current debate on balancing paid work and care. This should not come as a surprise in light of the passage of time since its introduction. In this time, significant changes have taken place, including: large numbers of women entering the workforce; a greater understanding of the impact of Australia’s ageing population; a changing industrial environment; and a rising expectation that men and women should share their paid work and care responsibilities. These social changes are yet to be fully reflected in the law.

It is clear that there is an immediate need for law reform to both increase the protections available to workers with family and carer responsibilities and to promote systemic change. In HREOC’s view addressing these dual objectives requires:

- an extension of the family responsibilities provisions to make unlawful both direct and indirect family responsibilities discrimination in all aspects of employment;
- the introduction of a right for men and women workers with family and carer responsibilities to request flexible work arrangements;
- protection for individuals with a diverse range of caring responsibilities; and

180 Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 21.

181 This education campaign could draw on the work undertaken in the UK and the Netherlands, where the passing of right to request legislation was preceded by inclusive and widespread consultation. See Ariane Hegewisch *Employers and European Flexible Working Rights: When the floodgates were opened* Issue Brief Center for WorkLife Law San Francisco 2005, p 4.

- the inclusion of these new rights and responsibilities in a separate specialised piece of legislation that is viewed as accessible to both men and women.

Extending the family responsibilities provisions within the Sex Discrimination Act is not enough. This is because it fails to confront the entrenched stereotype that caring is the responsibility of women in our society. It is essential that extending protections for workers with family and carer responsibilities occur alongside measures that promote systemic change by ensuring men's access to, and utilisation of, these protections. These dual objectives would be best achieved by including the improved protections in a new *Family Responsibilities and Carers' Rights Act* to be introduced by the Australian Government. A specialised piece of legislation would clearly encompass both men and women workers with family and carer responsibilities. The introduction of this legislation should be accompanied by a comprehensive education campaign.

Chapter 4: Striking the balance in the workplace

4.1 Introduction

While it is clear that the workplace is central to any discussion of balancing paid work and family, the relationship of the workplace to family life is inadequately acknowledged in public debate. Just as families rely on paid work for economic sustenance, workplaces rely on the unpaid work that takes place in families to sustain the labour force. The “ideal worker” is commonly understood as an individual who can meet the demands of paid work without any interruptions from family life.¹⁸² Against this ideal, those workers who do have caring responsibilities may be seen as falling short. In this model, care for others is viewed as a “choice” that individual workers make, rather than an inevitable and integral part of working life.

In consultations with HREOC, employees were highly conscious of the economic and regulatory demands made on employers in the contemporary labour market and appreciative of employers who provided flexible work structures. However, the overwhelming feeling was that employees were so pressured by the combined demands of paid work and family life that better ways of combining them have to be found.

4.2 The key issues

The *Striking the Balance* discussion paper identified some key features of contemporary working life that potentially affect the ability of individuals to successfully balance their paid work and their family and carer responsibilities. These include longer working hours, work intensification and an increase in casual and part time work. The *Striking the Balance* discussion paper also posed broad questions about the role that workplace structures and workplace cultures play in the ability employees have to balance paid work and care.

In response to these questions, the following emerged as the key issues for addressing paid work/care balance in the workplace:

- increased recognition of the relationship between workplaces and the broader community, and specifically of the care arrangements that support the workplace;
- a mix of both certainty and flexibility in the conditions of work, adaptable for employees across the life course;
- the need for structural changes to support gender equality and equality for carers (such as improving pay equity and quality part time work);
- expanded legal rights, specifically improved protection from discrimination, a right to paid maternity leave and a right to request flexible work arrangements; and
- the need for cultural change in workplaces to implement existing family-friendly provisions and drive further changes.

182 See Joan Williams *Unbending Gender: Why work and family conflict and what to do about it* Oxford University Press New York, 2000 for a discussion of the “ideal worker” norm, particularly pp 1-6.

A common issue that was raised in consultations with employers and in submissions from employer representatives was the idea that a prescriptive “one-size-fits-all” approach to paid work and family issues would not be a workable solution.¹⁸³ Accordingly, this discussion proceeds with the recognition that there is not likely to be one solution that can be implemented across all industries, occupations and employers. It seeks instead to outline the principles that workplaces could adopt and the role that workplaces can play as an essential part of a national response to balancing paid work and care.

Before discussing these issues, this chapter will give an overview of the Australian workplace relations framework, in particular in the context of recent changes to federal workplace relations legislation.

4.3 Workplace relations framework

The structural and legal framework for the majority of workplaces in Australia is set out in the federal *Workplace Relations Act 1996*. The *Workplace Relations Amendment (WorkChoices) Act 2005* (WorkChoices) came into effect in March 2006 representing one of the most significant changes to workplace relations arrangements in Australia since federation.

The reforms have resulted in significant community debate and many individuals and organisations raised concerns about the operation of WorkChoices with HREOC in submissions and consultations. These concerns are discussed further in section 4.10.

A range of recommendations in relation to the federal workplace relations framework can be found in subsequent sections.

The following sets out the key features of the WorkChoices system.

Overview of WorkChoices legislation

WorkChoices created a national industrial relations system, estimated to cover up to 85 per cent of employees in Australia.

Australian Fair Pay and Conditions Standard

The WorkChoices legislation establishes the following minimum conditions:

- Maximum ordinary hours of work: A maximum of 38 hours per week averaged over no more than a 12 month period, plus any reasonable additional hours.
- Annual leave: Annual leave remains at four weeks paid leave per year (this excludes casual workers), two weeks of which may be cashed out by agreement. Shift workers may be entitled to accrue an additional week of paid annual leave.
- Personal/carer's leave (including sick leave): This consists of 10 days paid leave per 12 month period. This leave is cumulative. Employees, including casuals, are entitled to a further two days of unpaid carer's leave per year in the event of an unexpected emergency. Employees are also entitled to two days of paid compassionate leave for each occasion where an employee's immediate family or household member contracts an illness or sustains an injury that poses a serious threat to life or dies. Leave may be cashed out by an employee with only a requirement to retain 15 days.

183 See for example Australian Chamber of Commerce and Industry, Submission 122, p 6 and Australian Industry Group, Submission 162, p 5.

- Parental leave: An employee will be entitled to up to 12 months unpaid parental leave at the birth or adoption of a child – this may be shared with an employee's spouse. This entitlement applies to employees with at least 12 months continuous service. A male employee is entitled to take up to one week of unpaid leave within a week of the birth of his child and a longer period of continuous unpaid leave to be his child's primary care-giver. The total amount of unpaid paternity leave that can be taken is 52 weeks, but this amount is reduced by any other leave taken by him or other parental leave taken by his spouse for the birth of the child.
- A Federal Minimum Wage: This will be set by the Australian Fair Pay Commission (AFPC) which will also determine the timing, scope and frequency of wage reviews, and the way in which wage reviews are conducted.

Awards

Awards will be simplified and rationalised. WorkChoices reduces the list of allowable award matters. The following previous allowable award matters have now been removed from awards: jury service, notice of termination, long service leave and superannuation.

WorkChoices preserves certain award conditions where these are more generous than the Fair Pay and Conditions Standard. Matters contained in awards which are either non-allowable or not preserved entitlements will be unenforceable.

Termination of employment

WorkChoices prevents an employee from bringing an unfair dismissal claim where:

- their employer employs 100 or less employees;
- they have not completed six months employment with the employer;
- the termination of their employment is for genuine operational reasons (for example, redundancy); or
- they are engaged on a seasonal basis.

Remedies for unlawful termination on discriminatory grounds remain.

Workplace agreements

WorkChoices encourages agreement making at the workplace and individual level. The procedures for negotiating, approving and lodging workplace agreements, particularly Australian Workplace Agreements (AWAs), have been simplified and streamlined.

Collective agreements are no longer certified by the Australian Industrial Relations Commission and AWAs no longer need to be approved by the Employment Advocate. Employers who fail to comply with the legal requirements for the making and content of workplace agreements may be subject to significant financial penalties.

Collective agreements and AWAs no longer need to satisfy the no disadvantage test against the terms of underlying awards. Instead, all new workplace agreements need only comply with the minimum conditions in the Fair Pay and Conditions Standard.

4.4 Recognising the relationship between paid work and caring work

Central to a new approach to paid work and family/carer responsibilities is a change in the philosophy that underlies Australia's approach to paid work. Rather than seeing workplaces as peripheral to the choices individuals and families make about managing their family and carer responsibilities, the workplace needs to be considered as a central agent in the construction of those choices.

Workplaces are part of society and workers are not “care-less”

Workplace structures and cultures contribute to the wider culture in which men and women live. Some consultations with employers showed a genuine belief that many paid work and family/care issues, such as gender equality, are beyond the reach or influence of workplaces and therefore beyond the scope of individual workplaces to address. However other consultations and submissions argued persuasively that workplaces can actively contribute to a culture of inequality through, for example, unequal pay, gender segregation in employment, limited or non-existent family-friendly policies and male dominated work cultures with hostile attitudes toward workers with family/carer responsibilities.¹⁸⁴

Recognition that workplaces do not exist outside of the social context in which individuals make their decisions and meet their responsibilities to care also entails acknowledging care as the necessary support for workplaces and by extension the economy as a whole. As one submission put it:

If we think about the whole economy it is not possible to sustain the artificial public/private divide. Children can no longer be seen as simply a private matter for families rather than a responsibility of the whole community. Even more significantly, our businesses and our communities are exposed as free-riding on the unpaid labour of parents, particularly mothers (Folbre 2001). People are contributing to the economy by providing care for others.¹⁸⁵

Another submission pointed out the reliance of employers on the unpaid labour that underpins the workforce.

... unpaid work directly and indirectly subsidises the performance of paid work, and the employers and enterprises for which it is performed ... We need to link unpaid caring work with paid employment and to draw attention to the extent to which the economy depends on unpaid caring work to subsidise paid work.¹⁸⁶

Caring is not a “choice”

It is also important that employers and employees share a common understanding that while preferences for combining paid work and care may vary, as will employers' ability to meet them, caring itself is not a “choice”. Very few individuals have no caring or other unpaid responsibilities across their working lives, whether this is a responsibility for raising children, caring for older relatives or caring for family members with an illness or disability. Paid and unpaid caring work is interdependent and, as one submission pointed out, those who do not have care responsibilities depend on the care of others:

The “male breadwinner” depends as much on the unpaid work of his partner as she depends on his wage.¹⁸⁷

The myth of the “ideal worker” as one who has no caring responsibilities needs to be replaced with a more realistic ideal of shared work and valued care, as discussed in Chapter 2. To do this involves change on a number of fronts in the paid workforce. These changes are discussed below.

184 Sara Charlesworth, Submission 98; Community and Public Sector Union, Submission 90; and NSW Equal Employment Practitioners' Association, Submission 44, p 8.

185 Marty Grace, Mary Leahy and James Doughney, Submission 114, p 3.

186 Sara Charlesworth, Submission 98, p 5.

187 Marty Grace, Mary Leahy and James Doughney, Submission 114, p 2.

4.5 Certainty and flexibility in the workplace

HREOC heard from many workplace participants that a mix of certainty and flexibility in the workplace is required in order to meet the diverse range of paid work and care needs.

Certainty of working hours and reasonable length of hours

Certainty of working hours, both in length and regularity, is one aspect of structural change that emerged as important in public submissions and consultations.

The existing way in which many families attempt to address the lack of balance between paid work and family/carer responsibilities – part time work for women – not only comes at an economic cost to those women, but ignores the issue of long working hours and entrenches long hours for many men so they can meet their family's economic needs.

For salaried men in particular long hours of work were a major issue, confirming the statistics reported in the *Striking the Balance* discussion paper and elsewhere.¹⁸⁸ A male respondent in a survey cited by the Community and Public Sector Union pointed out the direct cost of long hours:

I realised with the birth of my first child that my current job was not going to pay for the bills, mortgage and her child care. I had to strive to get a job with better pay and this forced me to increase my hours at work. This has had a noticeable negative impact on my family life.¹⁸⁹

A submission from the Shop Distributive and Allied Employees Association argued for curbing the length of unpaid overtime:

Controls on the number of hours people can work each week, and preventing the working of unpaid overtime, would likely open up many new job opportunities. The Reasonable Hours Test Case decision should be applied across the workforce. These changes would result in a broader and fairer distribution of work. They would allow more people to both participate in the paid workforce and their families. They would facilitate achievement of better work-family balance.¹⁹⁰

Recent international research confirms the importance of fewer work hours to better reconciliation of paid work and family life, with both female and male respondents in the 2004 European Social Survey identifying shorter working hours as having the most effect on their work/life balance.¹⁹¹

The Australian Manufacturing Workers' Union argued that predictable hours and secure employment are essential to workers balancing paid work and family/carer responsibilities.

188 See *Striking the Balance* discussion paper, pp 21-22 for information about long hours of paid work and the related issue of work intensification. Data from the first wave (2004) of the Longitudinal Study of Australian Children shows that the average usual working hours of employed partnered fathers with an infant is 46 hours per week (data provided to HREOC by the Australian Institute of Family Studies).

189 Community and Public Sector Union, Submission 90, p 13. This response also points to other relevant factors such as the cost of child care, which is discussed in Chapter 7.

190 Shop Distributive and Allied Employees Association, Submission 71, p 3.

191 Cited in Barbara Hobson, Ann-Zofie Duvander and Karin Hallden "Men and Women's Agency and Capabilities to Create a Work Life Balance" Paper presented at *Gender and Social Policy: International Perspectives* University of Sydney/University of New South Wales University of Sydney Sydney 24 February 2006.

Secure and predictable employment is fundamental for workers balancing work and family commitments ... Stable working hours and flexible leave arrangements that allow for planned and unplanned contingencies, enhance the work/life balance of workers. Penalty rates for overtime and work outside of ordinary hours also contribute by giving workers financial compensation for working longer or less sociable hours ... Insecure, unreliable casual employment is corrosive to family life.¹⁹²

Many employers and managers recognised that long hours were not necessarily associated with improved performance or greater productivity, with some noting that it can have a negative bottom line impact.¹⁹³ A male middle manager noted that: "If you make life difficult that does have an impact on productivity and retention".¹⁹⁴ However, as noted below in relation to implementing family-friendly policies, managers may not have the necessary skills or organisational support to implement family-friendly working time arrangements.¹⁹⁵

Long working hours also have an effect beyond individual experience and productivity. Where long hours are entrenched within workplaces they increase employer and colleague expectations and contribute to a family-hostile work culture.¹⁹⁶ Long hours of paid work also reinforce the traditional breadwinner/home carer model by assuming that workers are "care-free" and able to devote more time to paid work.¹⁹⁷

Research in the UK has found that while the "right to request" legislation (which gives employees a right to request flexible working arrangements to meet caring needs) has been both popular and successful for many employees with caring responsibilities for young children, the legislation has had little or no impact on the extent of long hours working.¹⁹⁸ The long hours culture may be one of the reasons why men find it harder both to request flexible working and to have their requests accepted by employers. Variable and unsocial hours present particular problems under the right to request flexible work.

The rationing approach to flexible working is particularly problematic in relation to variable hours, evening and weekend work. There are obvious difficulties for parents and other carers when both partners or a sole carer has irregular hours.

HREOC proposes a stronger and more coherent national working hours framework which combines the promotion of flexibility with workplace support and structures designed to limit long hours working. This framework would be particularly useful for salaried workers whose working time arrangements are less likely to conform to the standard 38 hour week as established in the Australian Fair Pay and Conditions Standard.¹⁹⁹ Encouraging workplace negotiation about working time arrangements and providing incentives to employers to design working hours arrangements that meet the needs of their employees with family/carer responsibilities could form part of this framework.

192 Australian Manufacturing Workers' Union, Submission 161, pp 6-7.

193 Employer Consultation, Brisbane, 27 September 2006; HREOC Focus group 9, July 2005.

194 HREOC Focus group 9, July 2005.

195 See discussion in section 4.8.

196 The role of workplace culture is explored further in section 4.8.

197 See Barbara Pocock "Australian Mothers in 2004: Awaiting a decent work/care regime" in Patricia Grimshaw, John Murphy and Belinda Probert (eds) *Double Shift: Working mothers and social change in Australia* Circa Beaconsfield, 2005, pp 8-23 at p 11 for elaboration on these points. See also discussion of this point throughout Barbara Pocock's *The Work/Life Collision* The Federation Press Sydney 2003.

198 Colette Fagan, Ariane Hegewisch and Jane Pillinger *Out of time: Why Britain needs a new approach to working-time flexibility* Trades Union Congress 2006. See 3.4, 4.7 and 4.8 for further discussion of the "right to request" flexible work.

199 See "Overview of WorkChoices legislation" above for information about the Australian Fair Pay and Conditions Standard.

Recommendation 7:

That the Australian Government establish a national working hours framework which promotes flexibility and encourages workplaces to limit long hours working.

In developing this framework, the Australian Government should consider the following:

- a) a program to address long and unpredictable working hours;**
 - b) a program to encourage workplace level negotiations about working time arrangements;**
 - c) incentives to employers to offer flexible working arrangements which reflect employee needs across the life cycle; and**
 - d) initiatives aimed at changing the organisation of work so that it better meets the needs of employees with family and carer responsibilities.**
-

Greater workplace flexibility to meet the range of worker and carer needs

Lack of carer-friendly flexibility in working hours also affects the capacity of people with caring responsibilities for older people and people with disability to participate in employment. Many people with primary caring responsibilities for older people or people with disability are unable to participate in paid work because of difficulty in arranging working hours, a loss of skills from being out of the workforce and a lack of alternative care arrangements.²⁰⁰ For many carers, participation in paid work may not be an option while for others part time work may be the only feasible option.²⁰¹

Submissions and consultations noted that the needs of carers for older people and people with disability requiring care differed from those with children, pointing to a need for greater recognition of this by employers.²⁰²

Demands for elder care may be less predictable and more sporadic depending on the degree of independence experienced by older family members. Understanding of elder care responsibilities by employers is important and greater flexibility and negotiation is needed within workplaces for workers to meet these needs for care. In addition to general family-friendly provisions such as reduced working hours, flex time or working from home, specific policies that are useful for elder care include capacity to monitor throughout the day through support phone calls, extended lunch breaks to allow for meal preparation and access to carer's leave to accompany elders to appointments.²⁰³ Similar needs also often arise for carers of people with disability. These policies will in most cases pose negligible cost for employers and will increasingly become a necessary part of the working day as the population ages and the size of the workforce ages.²⁰⁴

Other policies useful for elder carers and carers of people with disability include the ability to take extra leave when paid leave runs out, being able to undertake carer training and support (as well as care itself) and greater promotion of family-friendly provisions generally to encourage acceptance within the workforce so that employees do not feel pressured to resign.²⁰⁵

200 Carers Australia, Submission 60.

201 Carers are more likely to be working part time than full time. See Access Economics *The Economic Value of Informal Care* Report for Carers Australia August 2005, p 12 which finds that the age-standardised rate of part-time employment for primary carers is 28.8 per cent and for non-primary carers is 21.1 per cent compared to a rate of 17.2 per cent for the general population.

202 Carers Australia, Submission 60; Union Consultation, Canberra, 5 September 2005; Community and Public Sector Union, Submission 90, p 4 and p 9.

203 Carers Australia, Submission 60.

204 See *Striking the Balance* discussion paper pp 72-74 for a discussion of workforce participation in an ageing society. See also Organisation for Economic Co-operation and Development *Live Longer, Work Longer* Ageing and Employment Policies OECD Publishing, 2006.

205 Working Carers Support Gateway, Submission 77. See also section 4.7, below.

Submissions also pointed to the need to consider not only workers caring for people with disability but workers with a disability who have caring responsibilities. People with disability face higher barriers to employment than other groups in Australia, despite representing 16.6 per cent of Australia's working age population.²⁰⁶ Workforce participation for women with disability is lower than that of men with disability, suggesting that balancing paid work with caring work is more complicated for women with disability.²⁰⁷ Women with disability who have caring responsibilities often face particular barriers in terms of transitioning from welfare to work. These include additional costs required by employment and ceasing eligibility for associated welfare entitlements, as well as a lack of flexibility in disability services.²⁰⁸ This lack of flexibility and support hampers the capacity of women with disability to balance the roles of carer and employee, making it even more difficult than it is for other women.²⁰⁹

Recommendations aimed at increasing flexibility within workplaces to deal with the range of caring and other employee needs are discussed further in sections 4.7 and 4.9.

4.6 Structural change to support gender and carer equality

Improvements to workplace policies and part time working conditions emerged in submissions and consultations as key structural changes that would allow carers, particularly women, to continue in paid employment without experiencing a downward spiral in terms of working conditions. Without access to flexible working arrangements and quality part time work, carers can become locked into a pattern of employment inequality, with lower wages and fewer opportunities.

Family-friendly policies that incorporate gender equality

A range of family-friendly measures were canvassed in submissions and consultations as ways of helping employees manage their paid work and family and carer responsibilities. Based on an Organisation for Economic Co-operation and Development (OECD) definition, HREOC understands family-friendly policies as those that:

- facilitate the reconciliation of work and family life through adequate family and child development resources;
- facilitate parental and other carers' choice about work and care; and
- promote gender equality in employment opportunities.²¹⁰

This last part of the definition emerged as particularly important in our consultation process, because of gender differences in access to and use of various family-friendly provisions such as flexible working hours, paid leave provisions and working part time.

206 Human Rights and Equal Opportunity Commission *WORKability II: Solutions People with disability in the open workplace Final report of the National Inquiry into Employment and Disability* HREOC Sydney December 2005, p 13.

207 Disability Council of NSW, Submission 76, p 2, citing Women with Disabilities Australia submission to the Human Rights and Equal Opportunity Inquiry into Employment and Disability.

208 Disability Council of NSW, Submission 76, p 3. This issue is also discussed in Chapter 6, sections 6.4 and 6.5.

209 Community consultation, Parramatta, 7 September 2005 and Community consultation, Adelaide, 11 July 2005.

210 Organisation for Economic Co-operation and Development *Babies and Bosses: Reconciling work and family life – Australia, Denmark and the Netherlands* Volume 1 OECD Paris 2002, p 10. See also Chapter 8. HREOC also uses the term "family-friendly" in a broad sense to encompass the full range of family and carer responsibilities as discussed throughout this paper.

Access to paid leave entitlements such as parental and/or maternity and paternity leave, as discussed in section 4.7, is crucial for those with care responsibilities. The patchy coverage of these entitlements was evident from our consultations with employees and unions, who confirmed that they were more likely to be offered to white collar professionals on a “grace and favour” basis.²¹¹

Access to paid leave entitlements such as paid maternity leave and paid paternity leave has increased in recent years, although coverage differs widely across occupations and industries.²¹² This increase represents a growing recognition by employers of the business case arguments for paid leave as a way of retaining valued staff and perhaps also a response to the absence of a much needed national scheme. Evidence was provided in support of employers’ awareness of the benefits of paid leave for employers and employees.²¹³ It is crucial that these leave options are widely available and not limited to the public service and large companies employing highly skilled workers.

International evidence highlights the importance of paid leave entitlements in encouraging fathers to take parental leave.²¹⁴ In Norway, Iceland, Denmark and Sweden where paid leave quotas have been introduced for fathers on a “use it or lose it” basis, leave taking by fathers has more than doubled in recent years.²¹⁵ Other mechanisms such as the Italian system in which the total length of parental leave is extended if the father also takes parental leave can also act as encouragement to men.²¹⁶

211 Union consultation, Melbourne, 14 July 2005; Community consultation, Melbourne, 17 August 2005.

212 According to the first detailed survey by the ABS on the employment circumstances of women who had a child under two years of age, *Pregnancy and Employment Transitions*, paid maternity leave was used by 34 per cent of employed mothers-to-be. Professional women were more likely to take paid leave for the birth of their child than women in other occupations: 56 per cent of professional mothers-to-be took paid maternity leave while only 8 per cent of elementary clerical, sales and service workers took paid maternity leave. Use of any type of leave for the birth of the child was more prevalent within the public sector than in the private sector with 86 per cent of mothers-to-be in the public sector taking leave compared to 71 per cent in the private sector. 76 per cent of women in the public sector took paid maternity leave while only 25 per cent of women employed in the private sector took such leave. Fifty-six per cent of women in large firms (employing 100 people or more) took paid maternity leave for the birth compared to only 15 per cent of women in firms employing less than 10 people. Of women whose partners remained their partners during their pregnancy, some form of paid leave was used by 70 per cent of partners, however only 25 per cent used paid paternity or parental leave: ABS *Pregnancy and Employment Transitions, Australia* Cat No 4913.0 November 2005. The Equal Opportunity for Women in the Workplace Agency’s survey of reporting organisations (100 employees or more) found that the provision of paid leave has doubled in the last four years: 46 per cent provide paid maternity leave (an increase from 23 per cent in 2001), while 32 per cent provide paid paternity leave (an increase from 15 per cent in 2001) (*Equal Opportunity for Women in the Workplace Survey 2005: Paid parental leave* Australian Government February 2006).

213 Australasian Institute of Mining and Metallurgy, Submission 33, Attachment 1; Job Watch Inc, Submission 38, p 12; and Union consultation, Darwin, 23 September 2005.

214 See for example Michael Thompson, Louise Vinter and Viv Young *Dads and Their Babies: Leave arrangements in the first year* EOC Working Paper No 37 Equal Opportunities Commission UK 2005; John Ekberg, Rickard Eriksson and Guido Friebe *Sharing Responsibility? Short and long-term effects of Sweden’s “Daddy-Month” reform* Swedish Institute for Social Research Working paper No 3 Swedish Institute for Social Research Stockholm 2004; Berit Brandth and Elim Kvande “Reflexive Fathers: Negotiating parental leave and working life gender” *Gender, Work and Organization* 9 No 2 2002 pp 186-203; and Thorgerdur Einarsdóttir and Gyda Margrét Pétursdóttir “Iceland Country Notes on Parental Leave Policy and Research” in Peter Moss and Margaret O’Brien *International Review of Leave Policies and Related Research* 2006 DTI Employment Relations Research Series No 57 UK Department of Trade and Industry (DTI) 2006, pp 144-150.

215 *ibid.*

216 Peter Moss and Margaret O’Brien *International Review of Leave Policies and Related Research* 2006 DTI Employment Relations Research Series No 57 UK Department of Trade and Industry (DTI) 2006, p 157.

There is some evidence which demonstrates that the impact of fathers taking parental leave is felt beyond the period of leave itself, with studies showing that men who take ninety days or more of parental leave show increased time spent in child care over the long term.²¹⁷

Other paid leave entitlements such as personal leave and annual leave are also important to employees who use them to help meet sporadic needs for care. These forms of leave emerged as particularly important for fathers in our focus groups and submissions, with men more likely to take these forms of leave for family/carer responsibilities than other forms of leave.²¹⁸ This indicates that there may be scope for types of leave and other family-friendly arrangements that may better suit men's preferences and needs for balancing paid work and family/carer responsibilities. Further research and consultation on this issue would be instructive.

Quality part time work

Many submissions and focus groups showed that part time work played a large role in women's responses to managing their family/carer responsibilities. This is evidenced by the high number of Australian women in part time employment. Of all 2 936 200 people working part time, 71 per cent are women.²¹⁹ Recent research confirms that the most common arrangement for partnered women with children under fifteen is part time work, with partners working full time.²²⁰ However this research also shows that hours of part time work often do not meet individual preferences, with many women wanting to work more hours.²²¹ ABS statistics show that in September 2005 women made up 66 percent of all underemployed part time workers, compared with 62 per cent in September 2004. Of these women who were part time workers in 2005, half were looking for more hours of work.²²²

HREOC's consultations and focus groups with employees and parents confirmed that the option of part time work for women with care responsibilities was often not ideal in terms of preferred hours and also in terms of job quality. One employer representative commented on women downshifting to lower status jobs to accommodate their family and carer responsibilities.

Many women who go into retail do so part time to fit around family ... professional women take a cut in status, for example, teachers, legal workers, and some from nursing move into shop assistant part time roles.²²³

A submission from an individual stated that:

I have a PhD in Molecular Biology as well as being a registered pharmacist. I also have two young children ... and as such I am employed part-time (as a pharmacist) rather than full time as a medical research[er], which would be far more fulfilling.²²⁴

217 Linda Haas and C Philip Hwang "The Impact of Taking Parental Leave on Fathers' Participation in Childcare and Ties with Children: Lessons from Sweden" paper presented to the *First International Conference on Community, Work and Family* Manchester UK 16-18 March 2005.

218 HREOC Focus group 9, July 2005 and Industrial Relations Victoria, Submission 160, p 22-23.

219 ABS *Australian Labour Market Statistics* Cat No 6105.0 January 2007, p 38.

220 Lixia Qu and Ruth Weston "A Woman's Place? Work hour preferences revisited" *Family Matters* No 72 Australian Institute of Family Studies Summer 2005, p 72.

221 *ibid*, p 74.

222 ABS *Underemployed Workers, Australia* Cat No 6265.0 September 2005, p 8.

223 Employer consultation, Melbourne, 12 July 2005.

224 Confidential, Submission 11.

This represents a loss of talent and skills for the labour market as a whole, and is a waste of both public and private investment in education and development.²²⁵

While part time work arrangements are common among Australian women with children and among carers of older people and people with disability, this fact does not necessarily indicate a preference for part time work. A recent study highlighted the contextual and shifting nature of women's paid work preferences, where some respondents indicated a preference for part time work because they were solely responsible for unpaid work in the home.²²⁶ It is not surprising to see the influence of unpaid work on women's preferences, for as noted in the *Striking the Balance* discussion paper, women carry a disproportionate load of unpaid work in the home.²²⁷ More equitable sharing of unpaid responsibilities in the home would arguably affect paid work preferences among women with family and carer responsibilities, resulting in an increase in women's labour market participation.

Submissions drawing on Australian data highlight the poor quality of much part time work in Australia.²²⁸ A submission from Industrial Relations Victoria summarised other negative effects.

Part-time employment has a negative impact on lifelong earnings and reinforces a women's subordinate role in the labour market and the household. Lower earnings are a result not only of the lower number of hours worked but also the type of part-time positions that are available. Permanent part-time work is marginalised through the lack of higher earnings, promotion, and training opportunities that it provides.²²⁹

Part time work in Australia carries with it many earnings penalties aside from the expected lower income while working shorter hours. Research conducted by Jenny Chalmers and Trish Hill found that:

Part-time work experience detracts from career advancement as measured by earnings. Our estimates suggest that a woman who reduces her hours to a part-time level on the birth of a child, for example, can expect to earn less per week than she did before working part-time when, and if, if she returns to full-time hours. Not only should she expect to earn less per week than when she last worked full-time, but she should also anticipate giving up the increase in her earnings that she would have experienced if she had remained working full-time.²³⁰

In addition, part time work is often casual employment which lacks the job security and leave entitlements of permanent work, and is more likely to be poorly remunerated.

Focus groups demonstrated that there is resistance among some employers to the idea of part time work for managers, although there were also instances where this had been achieved for high level managers with a positive flow on for others in the organisation.²³¹ This suggests that workplace cultures, as opposed to operational constraints, play a key role in framing employer responses to ideas for balancing paid work and care (this is discussed further in section 4.8).

225 Jenny Chalmers and Trish Hill, Submission 99; Work + Family Policy Roundtable, Submission 102, p 7; and Diversity Council Australia Limited, Submission 121.

226 Ciara Smyth, Margot Rawsthorne and Peter Siminski *Women's Lifework: Labour market transition experiences of women* Final report prepared for the Commonwealth, State, Territories & New Zealand Ministers' Conference on the Status of Women (MINCO) SPRC Report 7/06 Social Policy Research Centre University of New South Wales Sydney 2006, p iv.

227 See *Striking the Balance* discussion paper, Chapter 3.

228 Jenny Chalmers and Trish Hill, Submission 99; Industrial Relations Victoria, Submission 160, pp 49-52.

229 Industrial Relations Victoria, Submission 160, p 38.

230 Jenny Chalmers and Trish Hill, Submission 99.

231 For example, that described in HREOC Focus group 9, July 2005. See also the experience described in Confidential, Submission 36, p 1, cited below.

The effects of job-sharing can be similar to those of poor quality part time work. A submission from an individual highlighted the lived effects of a poorly managed job-share arrangement.

Although job-share benefits my family in allowing me to spend extra time with our children, it is not a simple matter of less-pay-same-role. The surface appearance is of the same role, but it is accompanied by additional and expected work without pay and an effective career demotion ... there is a level of 'hidden' discrimination that accompanies it. Prior to parental leave, I held a portfolio of large, complex, valuable clients. On returning to work, I was allocated a large number of small and unprofitable clients. As profit per client is linked directly to performance, pay and bonuses, this has effectively crippled my ability to reach the goals set. It is career hindering, and prevents me obtaining bonuses and pay rises that others in my role are able to reach.²³²

Given the high numbers of women with caring responsibilities in part time roles there is a clear need to remove the penalties associated with much part time work, the central features of which should include at the very least:

- secure as opposed to casual employment;
- entitlements to paid leave;
- a right to request flexible work arrangements;
- the ability to work part time in one's normal occupation; and
- the ability to continue accessing career training and development.

Submissions pointed out a range of other objectives for assessing the quality of part time work, including flexibility in number of hours and schedules, employment security and inclusion in the workplace culture and work group.²³³

Part time work also needs to be accessible to both women and men. An improvement in the quality of part time work would arguably increase the numbers of men in part time roles, especially fathers who wish to spend more time with their families but who cannot do so due to being locked into full time breadwinner roles.²³⁴ Greater numbers of men in part time roles may also improve the status of part time work.

The features of quality part time work as outlined above may not always be practical for all industries and occupations. However, there is scope to improve the quality of part time work through targeted programs and industry-specific resources. An example of recent work in this area is the industry guidelines produced by Industrial Relations Victoria for nursing, hospitality, local government, retail and the legal profession.²³⁵

The right to request flexible work arrangements, as discussed in Chapter 3 and below,²³⁶ would also go some way to reducing the penalties currently associated with part time work in Australia. In particular, it would assist employees by encouraging employers to consider the part time work option seriously within the context of employees' usual occupation.

232 Confidential, Submission 36, p 1.

233 See Sara Charlesworth, Submission 98, p 7 and Industrial Relations Victoria, Submission 160, p 51.

234 See discussion below in section 4.8.

235 Industrial Relations Victoria *Quality Part-Time Work: Working better for everyone* Final report of the Quality Part-Time Work Project State of Victoria Melbourne, October 2005. The project's industry guidelines are available at: http://www.business.vic.gov.au/BUSVIC.2097476/STANDARD//PC_60956.html.

236 See Chapter 3, section 3.4 and section 4.7 and 4.8 below.

Recommendation 8:

That the Department of Employment and Workplace Relations develop industry specific resources in consultation with relevant employer and employee organisations in both blue and white collar industries to encourage the development of quality part time work.

Recommendation 9:

That the Australian Government establish a grants program to assist businesses to increase the number of senior and quality jobs that are available part time. This initiative would supply matched funding to businesses and voluntary organisations for projects designed to embed quality part time work in their organisations.

Equal pay and equal opportunities in paid and unpaid work

Similarly equal pay and a less gender segregated workforce would help both men and women achieve the paid work and care arrangements that suit them.

Australian women are over-represented in certain areas of employment, and this is commonly known as occupational segregation. Women are much more likely to be employed in industries such as accommodation, cafes and restaurants, cultural and recreational services, health and community services, personal and other services and retail trade. These industries have a high level of award only coverage (i.e. minimum conditions), high levels of part time work and low hourly earnings.²³⁷ Along with other factors (discussed below), this occupational segregation contributes to pay inequity between men and women. Increasing the numbers of women in non-traditional industries and occupations is one way of breaking down this segregation. This could also form part of the Australian Government's focus on addressing current skills shortages.²³⁸

Pay inequality was much cited during consultations and submissions as a major factor in determining the choices men and women make about who undertakes care within couple families.²³⁹

The Government of Western Australia wrote:

When a two income family is faced with the loss of one income to enable a parent to leave the paid workforce to care for children or other family, the most economically beneficial outcome is for the lowest earning parent to cease or reduce paid work. Given the persistence of the pay gap, which is substantial when non-ordinary earnings are taken into account, it seems probable that many families cannot afford to pursue the equal sharing of caring roles or would prefer the advantages of additional income over a more equal caring arrangement. Fundamentally, the concept of the equal sharing of caring responsibilities carries a cost for families.²⁴⁰

237 Alison Preston, Therese Jefferson and Richard Seymour for WiSER – Women in Social & Economic Research *Women's Pay and Conditions in an Era of Changing Workplace Regulations: Towards a "Women's Employment Status Key Indicators" (WESKI) database* Curtin University of Technology September 2006, pp 13-14.

238 See, for example, the Australian Government's initiatives as described in Transcript of The Prime Minister the Hon John Howard MP *Address to the Australian Financial Review – Skilling Australia Conference* Sydney 18 September 2006 <http://www.pm.gov.au/news/speeches/speech2142.html>.

239 See, for example, Centre for Women's Studies and Gender Research, Monash University, Submission 46, p 4; Country Women's Association of NSW, Submission 73; Government of Western Australia, Submission 126, p 4; YWCA Australia, Submission 93; Australian Education Union, Submission 119, p 13.

240 Government of Western Australia, Submission 126, p 4.

The Centre for Women's Studies and Gender Research Monash University reported on the findings from a study examining factors driving fertility decisions.

The gender wage gap between women and men curtailed the flexibility families had to share caring labour. Women identified differential wage earnings opportunities between themselves and their male partners as central to decisions they made to carry the bulk of caring labour. These decisions then had impact[s] on their future labour market activities.²⁴¹

The ways in which pay inequality (and other discriminatory work conditions) affect employees' choices are complex and can be too easily dismissed with the claim that it is an inevitable consequence of women's own preferences for reduced hours of paid work while their children are young.²⁴² This overlooks the gendered presumption that the "ideal worker" will be a "breadwinner" without primary caring responsibilities, as well as the constraints that shape preferences.²⁴³ For example, a culture of long hours of work in a workplace may mean that women employees adjust their expectations and do not seek senior positions because of the impact it would have on their ability to manage their family and carer responsibilities.²⁴⁴

It also overlooks the more systemic barrier that unequal pay produces in that it forces the higher earner – usually the male in couple families – to take on the lion's share of paid work while the lower earner is left with the lion's share of unpaid caring responsibilities, regardless of parenting preferences or the needs of the recipients of care.²⁴⁵ The constraints that pay inequity imposes affect not only women but men who may want to undertake more unpaid caring work.

The social expectation of women giving birth and then staying home to care for children is reinforced through pay inequity. As long as women continue to earn on average less than men, the pressure on women to give up paid employment in exchange for unpaid caring obligations will continue. This ongoing gender inequity in pay rates also limits the life choices of men to undertake non-traditional roles because families cannot afford to lose the larger part of a double income.²⁴⁶

To create real choice for men and women, a greater effort is required to progress pay equity. Women in Australia currently earn only 83.9 percent of the male dollar for full time ordinary time earnings.²⁴⁷ While the gender pay gap in Australia is smaller than in many other comparable countries²⁴⁸ it is generally accepted that this is primarily due to the historical advantage enjoyed by Australian women arising from the 1972 Equal Pay Case and the implementation of that decision through a centralised system of industrial awards covering most employees.²⁴⁹

241 Centre for Women's Studies and Gender Research Monash University, Submission 46, p 4.

242 See Janet Albrechtson cited in Sara Charlesworth, Submission 98, p 4. See also Bettina Arndt "Why men are paid more" *Herald Sun* 16 October 2006, p 18 for an example of this claim.

243 See discussion of the "ideal worker" myth in sections 4.1 and 4.4

244 Marty Grace, Mary Leahy and James Doughney, Submission 114, p 5.

245 See sources cited in footnote 58. This barrier was also raised with HREOC by men and women in focus groups and consultations, for example, Community consultation, Sydney, 26 October 2005.

246 YWCA Australia, Submission 93.

247 Based on full time ordinary time earnings in August 2006. If both full and part time work is included, women only earn 65.6 per cent of what men earn (ABS *Average Weekly Earnings, Australia* Cat No 6302.0 August 2006).

248 OECD *OECD Employment Outlook* Paris 2002, p 95. Belgium leads the way in pay equity with a six per cent wage gap, followed by Australia. The average wage gap for OECD countries was 16 per cent: pp 95-97.

249 Victorian Pay Equity Working Party to the Minister for Industrial Relations *Advancing Pay Equity* Government of Victoria 2005.

To accelerate progress towards pay equity, HREOC has previously suggested a variety of measures.²⁵⁰ HREOC's suggestions for tackling the issue of pay inequity include the following recommendations for the Australian Fair Pay Commission (AFPC):

- that the AFPC take an active role in addressing pay inequities by establishing a specialist unit to undertake ongoing research and monitoring in relation to the pay gap between men and women in Australia and the role of the Federal Minimum Wage (FMW);
- that the AFPC undertake a series of investigations focused on under-valuation and comparative worth in female dominated occupations and industries particularly focusing on recognising 'soft' skills involved in caring work, knowledge work and communication, employee qualifications and on-the-job training as well as changing job demands and increased technology;
- that the FMW is set at a level relative to average weekly earnings for all employees and relative to men's earnings, so that it is likely to reduce rather than increase gender pay inequity; and
- that Australian Pay and Classification Scales contain detailed descriptors covering the full range of skills and employee attributes which can provide clear, skill based career paths for employees, particularly in female dominated industries and occupations.²⁵¹

Recommendation 10:

That the Australian Government make a substantial commitment to a suite of measures to address the gender pay gap incorporating elements previously identified by HREOC.

Recommendation 11:

Monitoring of women's wage and employment conditions

- a) That the Office of the Employment Advocate be required to monitor and publish annually information about the wages and employment conditions in Australian Workplace Agreements with a particular emphasis on gender differentiated data.**
 - b) That the Australian Fair Pay Commission undertake a program of monitoring and research with respect to the federal minimum wage and its impact on women workers. Particular attention should be paid to vulnerable groups of women employees with limited bargaining power, especially women with disability, young women, women from culturally and linguistically diverse and Indigenous backgrounds, and women working in less protected sectors of the labour market, such as outworkers.**
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Recommendation 12:

That the Department of Education Science and Training, through the National Skills Shortages Strategy and in line with *Shaping our Future: Australia's National Strategy for Vocational Education and Training 2004 – 2010*, fund the development of innovative projects to increase the number of girls and women in non-traditional occupations in areas of skill shortages. This should be done in cooperation with State and Territory training authorities.

²⁵⁰ Human Rights and Equal Opportunity Commission *Submission to the Senate Employment, Workplace Relations and Education Legislation Committee's Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005* Sydney November 2005 pp 3-4.

²⁵¹ For the full list of pay equity recommendations made by HREOC see Human Rights and Equal Opportunity Commission *Submission to the Australian Fair Pay Commission for Consideration in Determining the First National Wage Decision* Sydney July 2006, p 30.

4.7 The need for expanded legal rights

Submissions and consultations highlighted the need for additional legislative provisions to assist workers to balance their paid work with their family/carer responsibilities in three key areas: paid leave, a right to request flexible work arrangements and carer's leave.

Paid maternity leave and paid parental leave

Many submissions reiterated their support for either HREOC's previous proposal for a nationally funded 14 week system of paid maternity leave, or similar Australian Government funded systems.²⁵² Australia remains one of only two OECD countries that do not have a legislated paid maternity leave system.²⁵³

As detailed in HREOC's 2002 report *Valuing Parenthood: Options for paid maternity leave*, paid maternity leave provides a clear range of health, welfare and economic benefits to women, their newborn children and families particularly in providing a period of recovery from childbirth, allowing women to establish breastfeeding and bond with their baby and providing economic security to mothers by maintaining labour force attachment as well as assisting with the direct costs of children.²⁵⁴

Since the release of the *Valuing Parenthood* report, the Australian Government has introduced a one-off maternity payment on the birth of a child, currently worth \$4 100, however this fails to meet all of the aims of a national paid maternity leave scheme.

One submission placed Australia's lack of a paid maternity leave scheme within an international context, noting that "Australia's work and care supports, in terms of paid leave, remain at the bottom end of international standards across the developed world in this respect".²⁵⁵ This submission also pointed to the association between paid maternity leave and significant falls in neonatal death rates.

Other submissions connected the benefits of paid maternity leave in terms of increased labour force attachment for women and its role in creating greater decision-making choice for both women and men.²⁵⁶ One submission argued that lack of paid maternity leave "determines that women will be the primary care giver as income is lost during confinement and early care".²⁵⁷

252 See Job Watch Inc, Submission 38, pp 12-13; Queensland Government Submission 166, p 9; Australian Women's Coalition Inc, Submission 129, p 10; Women's Electoral Lobby Australia, Submission 115, p 15; Premier's Council for Women (SA), Submission 96, p 16; Sara Charlesworth, Submission 98, p 11; Work + Family Policy Roundtable, Submission 102, p 8; Bronwen Burfitt, Submission 107, pp 20-21; Business and Professional Women Australia, Submission 109; Australian Education Union, Submission 119, p 39; Government of Western Australia, Submission 126, p 8; Independent Education Union of Australia, Submission 159, p 12; Australian Industry Group, Submission 162, p 7; Anonymous, Submission 168; Peter S Cook, Submission 169, p 4; YWCA Australia, Submission 93; and Centre for Women's Studies and Gender Research Monash University, Submission 46, p 6. HREOC's paid maternity leave proposal can be found in Human Rights and Equal Opportunity Commission *A Time to Value: Proposal for a national paid maternity leave scheme* HREOC Sydney, 2002.

253 Australia has been the subject of criticism about this situation from a number of sources including the Committee on the Elimination of Discrimination Against Women (CEDAW 34th Session Concluding comments of the Committee on the Elimination of Discrimination against Women: Australia 16 January – 3 February 2006, p 4).

254 See Part C: Human Rights and Equal Opportunity Commission *Valuing Parenthood: Options for paid maternity leave Interim Paper 2002* HREOC Sydney 2002.

255 Work + Family Policy Roundtable, Submission 102, p 8.

256 Centre for Women's Studies and Gender Research Monash University, Submission 46, p 6; Police Federation of Australia, Submission 67, p 9.

257 Police Federation of Australia, Submission 67, p 9.

Some submissions suggested to HREOC that paid paternity leave or paid parental leave available to fathers and partners should be considered an essential family-friendly provision.²⁵⁸

Job Watch Inc advocated paid paternity leave of at least one week as a way of creating a “father-friendly workplace”.²⁵⁹

The YWCA Australia wrote:

Australians should be able to choose to have a child and not feel pressured to give up their income or indeed, their employment. A government funded maternity payment could address disadvantage and inequality in the workforce and at home by providing financial support to women. Consideration must also be given here to allowing flexibility within this leave to be taken by fathers and adoptive parents.²⁶⁰

An individual submission argued that paid paternity leave would help cement the important role of fathers in parenting and help break down stereotyped caring roles.

If the Government is serious about promoting family friendly workplaces and improving the role of fathers as positive role models for Australian children – it should legislate to introduce mandatory paternity leave provisions. Unless there is such a change, then there will simply be the entrenchment of historical sex stereotyped roles – not by choice, but by necessity as the role of fathers will not be supported or protected.²⁶¹

HREOC has considered this support for paid paternity leave and recognises the value of paid leave in assisting both the wellbeing of children and encouraging men to increase their involvement in caring for children in the early years (see Chapter 5 for further discussion of this point). HREOC acknowledges that some organisations already provide paid paternity leave, and that many men take other forms of paid leave on the birth of their children.²⁶² A recent EOWA survey showed that 32 percent of its reporting organisations provide paid paternity leave, with 83 per cent providing between 1-2 weeks of paid leave.²⁶³ However these forms of leave are not universally available to Australian fathers.

As canvassed in our 2002 paper *A Time to Value: Proposal for a national paid maternity leave scheme*,²⁶⁴ in an environment in which Australia still lacks a national paid maternity leave scheme for women, HREOC continues to be of the view that the introduction of a 14 week minimum national paid maternity leave scheme for women remains a priority. Once such a scheme is fully introduced, the Australian Government should consider phasing in a more comprehensive scheme including paid paternity leave at

258 See for example Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 17; Job Watch Inc, Submission 38, p 13; and YWCA Australia, Submission 93.

259 Job Watch Inc, Submission 38, p 13.

260 YWCA Australia, Submission 93.

261 Mark Dossetor, Submission 155, p 2.

262 See Gillian Whitehouse, Marian Baird, Chris Diamond and Amanda Hosking *The Parental Leave in Australia Survey: November 2006 report* December 2006 <http://www.uq.edu.au/polsis/parental-leave/level1-report.pdf> and also *Equal Opportunity for Women in the Workplace Survey 2005: Paid parental leave* Australian Government February 2006.

263 *Equal Opportunity for Women in the Workplace Survey 2005: Paid paternity leave* Australian Government May 2006.

264 See discussion in Chapter 4 of Human Rights and Equal Opportunity Commission *A Time to Value: Proposal for a national paid maternity leave scheme* HREOC 2002, pp 139-152.

the time of birth, and an extended period of paid parental leave that could be taken by either parent.²⁶⁵

Other submissions supported paid parental or family leave over separate forms of leave. The NSW Commission for Children and Young People advocated a national paid parental leave scheme set at a minimum standard according to what benefits children.²⁶⁶

The New South Wales Equal Employment Opportunity Practitioners' Association supported paid parental leave with eligibility dependent upon the male spouse accessing a proportion of the leave to take up caring responsibilities, arguing that this is a way of encouraging men to be involved early in parenting.²⁶⁷ A submission from a group of student researchers at the University of Sydney recommended a paid parental leave system "equally available and accessible to both men and women" as one way of overcoming the institutional and cultural barriers to better balance between paid work and family/carer responsibilities.²⁶⁸

These leave types also have the potential to recognise different types of caring responsibilities as well as a more diverse range of family relationships, such as same-sex families and extended kinship and family networks in Indigenous communities. As a submission from Anna Chapman pointed out, these family types and the caring arrangements within them are under-researched and not well served by current legislative provisions.²⁶⁹

Whatever the form that paid leave for workers with family/carer responsibilities takes, it is clear that paid leave entitlements are essential for recognising and supporting a shared work – valued care approach. Paid leave encourages workers with family/carer responsibilities to remain attached to the workforce, providing financial and job security at a time when care needs are high. It also provides choice for men and women who wish to give parental care to their children in their early years, particularly when it is combined with an extended period of unpaid leave.

Recommendation 13:

That the Australian Government as a matter of priority introduce a national, government funded scheme of paid maternity leave of 14 weeks at the level of the federal minimum wage, as recommended by HREOC in *A Time to Value: Proposal for a National Paid Maternity Leave Scheme* (2002).

265 Paid paternity leave should be available to the non-birth parent in same-sex families and be available to adoptive parents.

266 NSW Commission for Children and Young People, Submission 175, pp 4-5.

267 NSW Equal Employment Opportunity Practitioners' Association, Submission 44, p 7.

268 Third Year Honours Students, Work and Organisational Studies School of Business University of Sydney, Submission 128, p 52.

269 Anna Chapman, Submission 83. This submission argued that legal rules contained in the federal Workplace Relations Act and the Sex Discrimination Act "assume families and caring structures that marginalize both Indigenous values and the practices of child rearing in queer communities" and that families that differ from the normative standard are excluded from family-friendly workplace entitlements as a result. The submission is also published as: Anna Chapman "Challenging the Constitution of the (White and Straight) Family in Work and Family Scholarship" (2005) 23 *Law in Context* 1, pp 65-87.

Recommendation 14:

Following the introduction of a 14 week paid maternity leave scheme, the Australian Government should consider phasing in a more comprehensive scheme of paid parental leave consisting of:

- a) At a minimum, two weeks of paid paternity leave to be taken at the birth of the child; and**
 - b) A further 38 weeks of paid parental leave that is available to either parent.**
-

A right to request and a duty to consider flexible working

HREOC has recommended, in Chapter 3, that such a right be introduced in the proposed Family Responsibilities and Carers' Rights Act, and considers this to be a central plank of law reform to protect carers at work.

The right to request variations to working arrangements to meet caring needs as they arise, including flexibility around start and finish times, occasional change of working hours and occasional working from home, emerged in consultations and within submissions as just as important to employees as paid leave entitlements, particularly for workers with young and school aged children.²⁷⁰

While consultations made it clear that some types of employment do not suit these flexible arrangements, it is important to encourage employers and managers in particular to consider these options seriously. Consultations and focus groups showed this to be a central part of a proper response to paid work and family issues, particularly where resistance is not due to operational constraints but to an inability to think positively and creatively about things such as job redesign.

Carer's Leave entitlements

As noted above, submissions and consultations highlighted the need for greater support for carers of older people and people with disability requiring care. The ability to take extra unpaid carer's leave is an important workplace flexibility for those whose need to provide care is more sporadic and less predictable.²⁷¹

Australia has an ageing population and a corresponding ageing workforce, as discussed in Chapter 2 and in the *Striking the Balance* discussion paper.²⁷² With projected care needs set to increase in line with this demographic change, older workers will increasingly be called upon to undertake unpaid care work, which for many will overlap with their longer working lives. As noted in Chapter 8, this unpaid care would cost \$30.5 billion to replace if it was no longer provided informally.²⁷³ In order to support this care, and cognizant of the cost to employers of a large scale exit from an ever-diminishing supply of workers, greater and expanded carer's leave provisions are a necessary expansion of legal rights. Job protection acknowledges both in practical terms and symbolically the importance of unpaid care to the community as a whole, including business and

270 HREOC Focus group 9, July 2005; Community consultation, Canberra, 18 August 2005; and Andrea Hardwick, Submission 54.

271 Working Carers Support Gateway, Submission 77; Carers Australia, Submission 60; Community consultation, Adelaide, 11 July 2005; and Community consultation, Parramatta, 7 September 2005. See also discussion in Chapter 4 in section 4.5.

272 See *Striking the Balance* discussion paper, pp 72-74.

273 See Chapter 8, section 8.3.

government.²⁷⁴ A number of big businesses are already leading the way in recognition of this increasing care need by providing elder care policies.²⁷⁵

An increase in the Personal/Carer's Leave Standard is a necessary support for employees with increasing caring responsibilities.²⁷⁶

Further, a mirroring of the 12 month unpaid Parental Leave Standard should be considered to address other forms of care that workers provide to other family members throughout the life cycle. In light of the ageing of the population and the ageing workforce, HREOC recommends that the Australian Government consider introducing a new entitlement to meet the emerging need for care.

Recommendation 15:

Australian Fair Pay and Conditions Standard

- a) **That the Personal/Carer's Leave Standard be increased from 10 days to 20 days per annum with 10 days to be non-accumulative.**
 - b) **That the Australian Government consider introducing a new 12 month unpaid Carer's Leave Standard to be made available to employees who need to attend to the care of a seriously or terminally ill dependent. Like the Parental Leave Standard, this new Standard should be job protected and available to employees who have 12 months continuous service.**
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4.8 Workplace culture and use of family-friendly policies

Recommendations for legal reform in the areas identified above are important base line responses to the problems that workers experience in combining paid work with their family/carer responsibilities. However, in order for these changes to be implemented in a way that is productive for both employees and employers, they need to be incorporated with other structural and cultural changes within the workplace. In particular, barriers to uptake of family-friendly policies need to be addressed and measures introduced that will improve understanding and use of family-friendly policies.

Increased awareness of family-friendly policies and other workplace flexibilities

A major finding from consultations and focus groups discussing family-friendly measures was that there needs to be greater awareness about existing family-friendly provisions within workplaces, such as carer's leave and unpaid parental leave for primary carers, particularly among men. One of the main reasons men do not take up the family-friendly arrangements available to them is because they are not sufficiently aware of them.²⁷⁷ Other reasons for men's low take up of family-friendly workplace arrangements include concerns about money, concerns about adverse effects on

274 See further discussion Chapter 8, section 8.3.

275 National Diversity Think Tank/Diversity Council Australia *Work and Caring Second Round Table* ANZ Banking Group Sydney 21 November 2006. This Round Table featured presentations from a range of big businesses on the extensive family-friendly policies they offer, including elder care leave policies.

276 See also discussion in section 4.5.

277 Natalie Smith, Submission 43; Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 19.

careers, fears about job security, negative attitudes of supervisors and an overall perceived lack of support.²⁷⁸

Lack of awareness about family-friendly entitlements was not limited to men and was particularly noted with reference to some groups of employees. People with disability were identified as one such group, with one submission claiming that women with disability are less likely to receive information about their workplace rights in relation to family and carer responsibilities.

This is the case in relation to disability discrimination as well as sex discrimination, but many women with disability report knowing less about their rights as women because this information is produced and distributed in ways that are inaccessible to them.²⁷⁹

HREOC has found that the pressures of paid work are different for women and men. Many men who spoke to HREOC mentioned their lack of choice due to the constraints imposed by inflexible workplaces and their partner's lower earning capacity.²⁸⁰ Our finding complements recent data that shows a high percentage of fathers with young children (nearly 66 per cent) feel that their paid work interferes with their ability to take part in family life.²⁸¹

Women who gave evidence to HREOC generally had greater access to family-friendly provisions although this came at a cost in terms of job quality, satisfaction with hours worked and career aspirations.²⁸² For some women, particularly professional women, they could take advantage of family-friendly options such as part time work in the form of four day weeks. However workloads did not necessarily decrease while time pressures increased.²⁸³

Better strategies for implementing family-friendly policies

Male and female employees across different industries and occupations noted that while there were family-friendly policies in their workplaces they are often either not implemented or employees who take them up are marginalised within their organisation. In some industries, particularly male dominated ones, family-friendly options are simply not available.²⁸⁴

One of the barriers to accessing family-friendly arrangements that was reported to HREOC is a lack of implementation by managers. The Queensland Government submission noted that:

Supervisors play a key role in the effectiveness of work-family policies and programs, because they may encourage or discourage employees to participate in these programs, or because they may reinforce cultural norms that undermine employees' efforts to integrate their work and family lives.²⁸⁵

278 Michael Bittman, Sonia Hoffman and Denise Thompson *Fathers' Uptake of Family Friendly Employment Provisions* Final report prepared for the Department of Family and Community Services Canberra April 2003, pp 42-46. This point is discussed again later in this section.

279 People with Disability Australia, Submission 104, p 8.

280 Community consultation, Sydney, 9 November 2005 and HREOC Focus group 9, July 2005.

281 Michael Alexander and Jennifer Baxter "Impacts of Work on Family Life Among Partnered Parents of Young Children" *Family Matters* No 72 Summer 2005, pp 18-25 at p 20.

282 HREOC Focus group 9, Melbourne, July 2005; Employer consultation, Melbourne, 12 July 2005; and Women Lawyers Association of NSW, Submission 112, p 20.

283 Women Lawyers Association of NSW, Submission 112, p 20. This was also reported to be the case in the community sector, where part time roles frequently mean doing a full time workload due to inadequate resourcing: Community consultation, Melbourne, 13 July 2005.

284 Association of Professional Engineers, Scientists and Managers Australia, Submission 108, p 9; Industrial Relations Victoria, Submission 160, p 29.

285 Queensland Government, Submission 166, p 77.

The Independent Education Union of Australia cited a survey that found that resentment from managers having to become more adaptable, lack of knowledge and understanding of the issues and a workplace culture that views family-friendly policies as “soft” and “women’s business” were key challenges for the implementation of family-friendly policies.²⁸⁶

Managers and supervisors need to be made aware of the key role they play and be supported in their efforts to assist their employees by their organisation. Some submissions argued that managers should be assessed on their ability to respond to and implement family-friendly arrangements for their staff as part of their performance appraisals.²⁸⁷ This strategy would address situations where managers feel challenged by the task of implementing family-friendly policies, particularly those who may resent the task because of being overloaded with their other management responsibilities.

Change, many argued, needs to come from the top down, with role modeling by senior staff. As one submission put it:

Individual organisations that have shifted to a more accommodating work/life balance culture, have done so because their leaders have demonstrated commitment and decreed changes. The leadership and role modelling is very important in sending a positive message throughout the organisation at all levels and requires courage.²⁸⁸

Examples were given in HREOC consultations of the massive cultural shift that occurs when senior management staff themselves adopt a family-friendly arrangement, such as in the case of one organisation where two senior men asked for and received part time roles.²⁸⁹

Greater involvement and leadership by individual men is also needed to challenge cultures and perceptions about family-friendly arrangements relating only to women. One submission argued that men in management and other professional and leadership positions are well placed to lead this cultural change.²⁹⁰

It was pointed out that in work teams where some employees have family-friendly arrangements there can be resentment among co-workers, particular where arrangements are not offered or perceived as offered on an equal basis. Workloads in teams where employees use family-friendly arrangements need to be managed properly to avoid resentment from colleagues.²⁹¹ Along with good communication and transparency in how family-friendly policies are implemented, proper management of workloads is also important for breaking down perceptions that family-friendly arrangements are special treatment or favours for certain staff. A broader awareness raising campaign is also needed along with cultural change in the home to support this attitudinal change, as discussed in Chapter 5.

The problems with implementing family-friendly arrangements point to the need for further work on implementation strategies within workplaces, as well as information and practical support for managers to be able to find workable solutions for their staff.

286 The Independent Education Union of Australia describes these views as examples of company cultures that work against the implementation of family-friendly arrangements (Submission 159, p 11).

287 NSW Equal Employment Opportunity Practitioners’ Association, Submission 44, pp 10-11; Community and Public Sector Union, Submission 90, p 5.

288 NSW Equal Employment Opportunity Practitioners’ Association, Submission 44, pp 9-10.

289 HREOC Focus group 9, July 2005.

290 Women’s Electoral Lobby Australia, Submission 115, p 11.

291 Community and Public Sector Union, Submission 90, p 3.

Recommendation 16:

That HREOC develop Employer and Employee Guidelines in relation to workers with family and carer responsibilities, setting out rights and responsibilities, including a specific focus on small business.

The UK experience of introducing “right to request” arrangements in 2003 provides an example of the importance of supporting such new legislation with an extensive media campaign targeting both men and women, which encourages employees to take-up the new opportunities and employers to support the scheme.

A survey carried out for the UK Government 12 months into the operation of the new legislation found that although substantial advertising meant awareness of the changes was high among both employers and employees, there was an ongoing need for more awareness-raising and training for both parents and employers. Fathers, in particular, needed help and support in pursuing their rights under the legislation and some employers needed a clearer understanding of compliance with the legislation and the business reasons for refusal of requests. The survey also found that there should be more training for managers in how to manage requests and flexible workers.²⁹²

Recommendation 17:

That HREOC, in consultation with the Office of Workplace Services, be funded to develop comprehensive new resources and a major public awareness campaign focused on employers’ and employees’ rights and responsibilities under the new *Family Responsibilities and Carers’ Rights Act*.

Greater leadership and better recognition of the business case for family-friendly workplaces

There is also a need for greater industry level leadership to help facilitate change, particularly in male-dominated fields with a poor record of responding to the needs of workers with family and carer responsibilities. This could be done through education and assistance to translate business case arguments for family-friendly provisions into practice.²⁹³

Promotion of the evidence base would help encourage better recognition of business case arguments and would add to existing promotional activities that highlight best practice employers.²⁹⁴ For example, there is international research and some local research that demonstrates the links between productivity and good paid work and

292 Christine Campon on behalf of Working Families *Right to Request Flexible Working* Review of impact in first year of legislation Report for the UK Department of Trade and Industry London, March 2004.

293 For a summary of the business case arguments for family-friendly policies see the discussion in the *Striking the Balance* discussion paper, pp 98-100.

294 Examples of current work in this area include the annual Australian Chamber of Commerce and Industry (ACCI)/Business Council of Australia (BCA) National Work and Family Awards and a range of activities and research undertaken by the Equal Opportunity for Women in the Workplace Agency (EOWA).

family balance.²⁹⁵ Translating the business case arguments for adopting family-friendly provisions into measurable bottom-line outcomes is an important task, especially as a way of making managers more accountable for implementing family-friendly arrangements for their staff. Organisations in turn need to provide managers with “the education, the staff, and the authority to support employees to balance their work and family needs and to be recognised and applauded as ‘good’”.²⁹⁶

Recommendation 18:

That the ACCI/BCA National Work and Family Awards include new categories on father-friendly policies and carer-friendly workplaces in order to showcase best practices in the workplace for supporting working fathers and working carers.

Encouraging attitudinal change at the workplace level

Cultural barriers to good paid work and family balance identified by employees include what is commonly referred to as “presenteeism”, meaning an organisational culture in which employees feel they need to be in the office for long hours to prove their worth and/or deliver outcomes. For some workplaces this results in a costly high turnover in staff: “It seems people accept it and do extra hours, but they don’t really accept it as they leave.”²⁹⁷ Other employers urged a recognition that extra hours don’t necessarily mean more productive hours.²⁹⁸ Ideas for combating presenteeism included “go home on time” days or broader wellbeing policies that workplaces have introduced such as in one workplace where employees are encouraged to take proper lunch breaks by not being allowed to eat lunch at their desks while working.²⁹⁹

Cultural factors play a large part in making family-friendly workplace provisions accessible to both women and men. Cultural barriers prevent many men from seeking accommodation of their family/carer responsibilities despite their desire and often need to care for their families. A submission from the Queensland Government pointed out:

Many working fathers are reluctant to play a greater role in family life due to the influence of workplace culture ... The prominent values and attitudes at the workplace affect virtually every aspect of employer-sponsored work-family initiatives ...³⁰⁰

295 See Nick Bloom, Toby Kretschmer and John Van Reenen *Work Life Balance, Management Practices and Productivity* Anglo-German Foundation, Economic and Social Research Council and Advanced Institute of Management Research January 2006, which demonstrates the link between good management practices (which improve work/life balance) and productivity. This study finds that work/life balance policies in themselves have a neutral effect on average in terms of productivity. In Australia, a recent survey of 400 organisations found that 58 per cent of respondents reported that their initiatives were having a positive impact on productivity, along with positive effects on retention and lower staff turnover: *Managing Work/Life Balance Work/Life Initiatives – The way ahead report on the year 2006 survey* Managing Work Life Balance International Roseville 2006, p 10. See also discussion of business case research in the *Striking the Balance* discussion paper, pp 98-100 and evidence presented in House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006, pp 166-167.

296 Community and Public Sector Union, Submission 90, p 5.

297 HREOC Focus group 9 (middle manager), July 2005.

298 Employer consultation, Brisbane, 27 September 2005.

299 HREOC Advisory Panel Meeting, Sydney, 16 December 2004; Employer consultation, Perth, 13 September 2005; Families Australia, Submission 50, p 7.

300 Queensland Government, Submission 166, pp 77-78.

Stereotypes about fathers and parenting can play a strong role in the culture of workplaces, as an example cited by the ACT Human Rights Office showed:

... one family arranged for the mother to take 12 months unpaid maternity leave after the birth of their first child. The father, an electrician, planned to take a year off work to stay at home and raise their child when his wife returned to work after her maternity leave. Unfortunately, the father faced strong criticism and ridicule from his work colleagues, who did not view this as 'the thing for a man to do'.³⁰¹

Factors associated with the workplace present major barriers to fathers' involvement in caring for their children.³⁰² With less support to take parental leave and other family-friendly policies there is a greater likelihood that fathers will not be physically and closely involved in parenting their children from an early age. This is a crucial time for facilitating men's engagement with child rearing, with a body of international research suggesting that paid parental leave leads to increased father involvement with children and positive outcomes for child health.³⁰³ Fathers taking ninety days of parental leave or more are more likely to increase their ongoing share of child care responsibility and emotional involvement with their children.³⁰⁴ Constraints on men's capacity to be involved in parenting help perpetuate the imbalance between paid and unpaid work among men and women and thereby limit men's and women's choices, as argued in Chapter 2.³⁰⁵

Without supportive attitudes within the workplace culture, family-friendly policies that are theoretically available to both women and men will continue to be taken up mostly by women. Such attitudes perpetuate the "mummy track" and "daddy track" phenomena, whereby employees who take up family-friendly options are perceived as not as serious about their jobs and are shunted into lower status roles or overlooked for promotions or other forms of career development.³⁰⁶

Implementing family-friendly policies and practices in workplaces requires skills (such as problem solving, communication, work design, decision making and project management) as well as supportive values. Evidence suggests that good management is a key element of achieving family-friendly workplaces.³⁰⁷ Despite the value of such family-friendly initiatives, many managers do not have the time or skills to make these work for their organisation and as a result feel penalised and burdened by requests to

301 ACT Human Rights Office, Northern Territory Anti-Discrimination Commission; Anti-Discrimination Commission Queensland; Equal Opportunity Commission Western Australia; Equal Opportunity Commission of South Australia, Submission 117, p 19.

302 Adrienne Burgess and Graeme Russell "Fatherhood and Public Policy" in *Supporting Fathers: Contributions from the International Fatherhood Summit 2003* Early Childhood Development: Practice and Reflections Series Bernard van Leer Foundation The Hague 2004, p 117.

303 See, for example, reviews of this research by Margaret O'Brien "Parental Leave Policies for Mothers and Fathers: Children's perspectives and well-being" and Sheila B Kamerman "Parental Leave Policies: The impact on child well-being" in Peter Moss and Margaret O'Brien (eds) *International Review of Leave Policies and Related Research* Employment Relations Research Series No 37 Department of Trade and Industry (UK) London, 2006, pp 16-21 and pp 22-30.

304 Linda Haas and C Philip Hwang "The Impact of Taking Parental Leave on Fathers' Participation in Childcare and Ties with Children: Lessons from Sweden" paper presented to the *First International Conference on Community, Work and Family* Manchester UK 16-18 March 2005.

305 See Chapter 2, section 2.3.

306 Women's Electoral Lobby Australia, Submission 115, p 4; ACT Human Rights Office, Northern Territory Anti-Discrimination Commission; Anti-Discrimination Commission Queensland; Equal Opportunity Commission Western Australia; Equal Opportunity Commission of South Australia, Submission 117, p 15.

307 Nick Bloom, Tobias Kretschmer, John Van Reenen *Work-Life Balance, Management Practices and Productivity* January 2006 Paper No CEPSP16 Centre for Economic Performance London, especially p 25. See also discussion in section 4.5, above.

do so. This point was raised with HREOC during consultations and in submissions as a key barrier to family-friendly workplace cultures.³⁰⁸

These findings highlight the need for better translation of business case arguments for family-friendly work arrangements. As noted above, education and practical assistance would assist businesses to measure the bottom line impacts of family-friendly policies, and this would in turn provide a platform for their implementation.³⁰⁹ This would also be a way of shifting the focus on the business case at a broad level to a more persuasive approach based on individual business needs.³¹⁰

Recommendation 19:

That an interdepartmental committee (including the Department of Families, Community Services and Indigenous Affairs, the Department of Employment and Workplace Relations and HREOC) should be established to examine initiatives to assist in improving the family-friendly culture within workplaces, including ideas such as:

- **developing more broadly recognised resources for employers focusing on the business case benefits of implementing family-friendly work practices;**
 - **developing training packages about the benefits of family-friendly work practices for middle and senior management; and**
 - **Developing community awareness programs focused on limiting working hours and discouraging presenteeism through workplace campaigns such as a “daddy go home on time” day.**
-

Stronger incentives for men to use family-friendly policies

Some employer representatives questioned whether there was any point in providing greater family-friendly provisions for men given their low take-up of family-friendly policies such as paternity leave.³¹¹ This point is confirmed by research which shows few workers, especially men and women on low incomes, take up their existing statutory right to 52 weeks of unpaid parental leave.³¹² However the low up take by men can be explained by a number of barriers, including the attitudes within the workplace as mentioned above and the fact that it is unpaid leave.³¹³ A policy specifically designed for men with a low or negligible impact on pay and career may be a more appropriate way of assisting male employees with family/carer responsibilities. A submission from the Premiers Council for Women (SA) argued that:

Strategies are also needed to assist men who feel they cannot take on carer duties because they will be looked down upon by colleagues, not seen as “manly”, or not seen as dedicated to their career by their employer.³¹⁴

308 Employer consultation, Hobart, 10 August 2005; Employer consultation, Melbourne, 12 July 2005; Employer consultation, Perth, 13 September 2005; Employer consultation, Adelaide, 12 July 2005; NSW Equal Employment Practitioners’ Association, Submission 44, p 9; Community and Public Sector Union, Submission 90, p 5.

309 See also the discussion of the business case for family-friendly and flexible work arrangements in the *Striking the Balance* discussion paper, pp 89-100.

310 See Graeme Russell and Linda Haas *Organisational Challenges in Integrating Work and Caring* White paper National Diversity Think Tank and Diversity Council Australia, 2006 for a discussion of an approach based on business need.

311 HREOC Advisory Panel Meeting, Sydney, 9 November 2004.

312 Marian Baird and Adam Seth Litwin “Rethinking Work and Family Policy: The making and taking of parental leave” in *Australia International Review of Psychiatry* 17 5 October 2005, pp 385-400.

313 These barriers were also mentioned in submissions and consultations. See, for example, Sara Charlesworth, Submission 98, especially Attachment 1, p 21; Mark Dossetor, Submission 155; and Premiers Council for Women (SA), Submission 96, p 29. See also discussion of paid leave entitlements above, in section 4.7.

314 Premiers Council for Women (SA), Submission 96, p 29.

A “daddy go home on time” day has also been suggested as a way of addressing cultural barriers in the workplace.³¹⁵

A case was made for further work on tailoring specific policies and provisions for men, drawing on Scandinavian models where there is a type of paid parental leave that can only be taken by men on a “use it or lose it” basis, known as the “daddy month”.³¹⁶ In Sweden paid parental leave is mandated for both fathers and mothers, with two months reserved exclusively for each parent with the remaining ten months taken by either parent. It is not possible to transfer reserved months between either parent.³¹⁷ Swedish fathers’ use of parental leave has increased steadily since the introduction of paid parental leave in 1974, with over 77 per cent of fathers with a child born in 1996 taking parental leave during their child’s first four years.³¹⁸

Better incentives are required to increase men’s use of family-friendly policies. Increased use of family-friendly policies by men would not only assist individual men to meet their family/carer responsibilities, it would also help break down the perception that these policies are only for women. A more even take up of family-friendly policies would contribute toward a better sharing of care and other unpaid work in the home. This strategy would not, however, work in isolation from a raft of other strategies for redistributing unpaid work between women and men, as discussed throughout this paper.

4.9 A life cycle approach to work and a universal approach to family-friendly flexibility

While many submissions and consultation participants concentrated on individual men’s and women’s roles in caring for children, a number pointed to the need for a comprehensive national approach to paid work and family/carer responsibilities in terms of current labour shortages in some industries and projected shortages as a result of the ageing of the population. The need to consider Australia’s ageing population and the specific needs and preferences of older workers was raised as an important issue given the large numbers of older workers who have caring responsibilities.

Submissions noted that the ageing of the population presents particular challenges for women who are part of the “sandwich generation” of those caring for both children and others such as ageing parents and spouses. Women who are sandwiched between various caring responsibilities find it difficult to access or continue with paid work, which is often restricted to part time and occasional employment that fits around

315 Families Australia, Submission 50, p 7. Families Australia also refers to an initiative of the Australia Institute that advocated a “National Go Home on Time Day”. See also discussion in Chapter 5, section 5.8 and Recommendation 19, above.

316 For an introduction to and discussion of these models see OECD *Babies and Bosses: Reconciling Work and Family Life – Canada, Finland, Sweden and the United Kingdom* Volume 4 OECD Paris 2005. The Swedish “daddy month” is summarised on p 239. See also Queensland Government Submission 166, p 79 and also discussion in sections 4.6 and 4.7 and Recommendation 14, above.

317 Adrienne Burgess and Graeme Russell “Fatherhood and Public Policy” in *Supporting Fathers: Contributions from the International Fatherhood Summit 2003* Early Childhood Development: Practice and Reflections Series Bernard van Leer Foundation The Hague 2004, p 118.

318 Linda Haas and C Philip Hwang “The Impact of Taking Parental Leave on Fathers’ Participation in Childcare and Ties with Children: Lessons from Sweden” paper presented to the *First International Conference on Community, Work and Family* Manchester UK 16-18 March 2005, p 2. It should be noted that these policies are also backed by extensive government funded promotion and a history of commitment to gender equality.

care responsibilities.³¹⁹ This results not only in financial pressure and lower retirement income for individuals but contributes to the pool of underutilised labour.

This approach is inclusive of the needs of an ageing workforce who may or may not have care responsibilities as well as the needs of people with disability as workers and carers. HREOC's National Inquiry into Employment and Disability recommended that efforts toward flexibility in workplaces to meet the needs of employees with disability be coordinated with efforts to create family-friendly workplaces.³²⁰ The report notes that the kinds of flexibilities that might be needed by employees with disability are not substantially different to the needs that other employees with caring responsibilities need.³²¹ A universal response to workplace accommodation of flexible, family-friendly policies may also help combat attitudes in the workplace that mitigate against employees taking up existing family-friendly provisions and discourage the perception of the needs of people with disability as being too difficult to accommodate.

It is important, however, that this inclusive approach retains a focus on gender equality, given that women are currently much more likely to be responsible for caring for children, elder care and caring for people with disability.³²² There also appear to be differences in the amount of caring work that women with disability undertake as compared to men with disability, with women taking on a greater share of unpaid work in line with expectations that they do so.³²³ Women with disability undertaking both paid and unpaid work are likely to spend more time and energy on unpaid work and increase their risk of ill health than women without disability.³²⁴

This mix of targeted strategies within a universal framework of workplace flexibility represents a response to paid work and family which encompasses changes across the life course. A life cycle perspective is necessary particularly considering the prospect of longer working lives and varying demands for care throughout those lives. The reality for many workers is that participation in paid work is more fluid than the traditional trajectory of the breadwinner unencumbered by caring responsibilities. Workplace responses to the needs of workers have to address the reality of modern working life as one which will increasingly resemble the traditional pattern of women's working lives as the population ages, that is, as one of movement in and out of caring roles in accordance with changing family and carer responsibilities. As paid work and family needs change over the life course workplaces will need to be sufficiently flexible in accommodating these needs.

319 Amanda Cooklin, Hannah Fagenblat, Susan Feldman, Jason Rubens and Geulah Solomon *Superwomen: Jewish sandwich women balancing intergenerational family responsibilities in multicultural Australia* NCJW Monograph Report to OSW Melbourne 2003 cited in National Council of Jewish Women of Australia, Submission 45, p 3; Australian Women's Coalition, Submission 129, Attachment 1, p 9. See also Premier's Council for Women (SA), Submission 96, p 4. See also *Striking the Balance* discussion paper, pp 41-45.

320 Recommendation 19, Human Rights and Equal Opportunity Commission *WORKability II: Solutions People with Disability in the Open Workplace, Final Report of the National Enquiry into Employment and Disability*, Human Rights and Equal Opportunity Commission, December 2005, p 130.

321 Recommendation 19, Human Rights and Equal Opportunity Commission *WORKability II: Solutions People with Disability in the Open Workplace Final Report of the National Enquiry into Employment and Disability* HREOC Sydney December 2005, p 125. The report also distinguishes these workplace flexibilities from "workplace accommodations" that may be needed by employees with certain disabilities.

322 See *Striking the Balance* discussion paper, Chapters 3 and 4.

323 Women With Disabilities Australia, *Submission from Women With Disabilities Australia (WWDA) to the Human Rights and Equal Opportunity Commission National Inquiry into Employment and Disability*, April 2005, p 9; People with Disability Australia, Submission 104, p 5.

324 Women With Disabilities Australia, *Submission from Women With Disabilities Australia (WWDA) to the Human Rights and Equal Opportunity Commission National Inquiry into Employment and Disability*, April 2005, p 9.

4.10 Community concern about *WorkChoices* and its impact on paid work and family/carer responsibilities

Significant changes to the *Workplace Relations Act 1996*, known as “*WorkChoices*”, were introduced, debated and came into operation during the writing of this report, which understandably meant that issues and concerns around the changes were raised in many submissions and consultations.

Many consultations and submissions expressed apprehension about the effects of the *WorkChoices* legislation, a number specifically raising concerns that the widespread changes to industrial relations would undermine the already precarious ability of many employees to combine paid work and family/carer responsibilities.³²⁵

Evidence for these concerns was given in relation to four main areas:

- the prospect of loss of control over working hours and its effect on the ability of employees to balance paid work and family/carer responsibilities;
- the prospect that minimum wages will be reduced over time because of the changes to wage setting;
- lack of protection and possible harassment and discrimination resulting from the removal of unfair dismissal laws for businesses with up to 100 employees; and
- the reduced role of unions to bargain for family-friendly provisions or the right to have those provisions regulated through awards and collective agreements.³²⁶

Unions were particularly concerned about the effects of the reforms on employees with little workplace bargaining power to individually negotiate suitable paid work and family arrangements, while business groups welcomed the changes as opportunities for more diverse needs and circumstances to be met in line with the varying capacities of Australian employers.³²⁷

There were widespread concerns among various groups about the legislation’s implications for women, specifically the prospect of increasing gender pay inequity over time and its impact on the choices women and men can make for balancing paid work and care.³²⁸

For example, a participant in a community consultation told us:

My biggest concern is the changes to the IR structure ... it is precisely those protections that offer balance between work and family that will be lost ...³²⁹

325 See for example, Community consultation, Adelaide, 11 July 2005; Community consultation, Perth, 13 September 2005; Community consultation, Darwin, 22 September 2005; Community consultation, Canberra, 18 August 2005; Community consultation, Melbourne, 17 August 2005; Union consultation, Melbourne, 14 July 2005; Union consultation, Hobart, 11 August 2005; Australian Education Union, Submission 119; and Australian Manufacturing Workers’ Union, Submission 161.

326 Community consultation, NSW Central Coast, 4 August 2005; Community consultation, Darwin, 22 September 2005; Community consultation, Canberra, 18 August 2005; Community consultation, Perth, 13 September 2005; Australian Manufacturing Workers’ Union, Submission 161; and Shop Distributive and Allied Employees’ Association, Submission 71.

327 *ibid.*, and Australian Chamber of Commerce and Industry, Submission 122, p 6; Australian Industry Group, Submission 162, pp 3-4; Victorian Automobile Chamber of Commerce, Submission 179.

328 See, for example, Australian Manufacturing Workers’ Union, Submission 161, p 6; Australian Education Union, Submission 119, p 2; Police Federation of Australia, Submission 67, pp 10-11; Women’s Electoral Lobby Australia, Submission 115, p 10; Business and Professional Women Australia, Submission 109; Mark Dossetor, Submission 155; Disability Council of New South Wales, Submission 76, p 4; Community consultation, Canberra, 18 August 2005.

329 Community consultation, Canberra, 18 August 2005.

A submission from Business and Professional Women told us:

The proposed changes to industrial relations and workplace conditions will [a]ffect families. Small and large businesses alike should have support from the government to implement flexible work practices but ensure that employees should be able to be productive and achieve a family work life balance. A flexible workplace, without other programs which address the pay gap for women and the different life experiences of women will not necessarily achieve balance and equity. While supporting greater flexibility in work practices, it is important to note that ... there are indications that the current government's industrial relations reform will impact women and those i[n] part time work to a greater degree. In reviewing work-life balance, there needs to be a holistic assessment of work place relations and social policy.³³⁰

These concerns are reflected in recent research about women's employment carried out for HREOC by researchers based at Curtin University of Technology's School of Business which has identified a range of concerns in relation to the new regulatory framework which will require monitoring to ensure that the legislation is not gender biased in its impact.³³¹ In relation to the gender wage gap, particularly for women in low waged occupations and industries, these concerns include the impact of increasing individual agreement making on women's wages and conditions, the impact on women's (and men's) patterns of working hours which assist in the management of family/carer responsibilities, access to family-friendly working arrangements and paid and unpaid leave entitlements and access to penalty rates and loadings. The researchers further note that the monitoring of these impacts should specifically include the impacts on women with disability, Aboriginal and Torres Strait Islander women and women from culturally and linguistically diverse backgrounds.

There was also concern about the effects of the reforms on opportunities for men to be involved in parenting, particularly a perceived threat to recently won gains for men in the area of paid paternity leave.

The whole push of the new IR regime will be to remove any chance of promoting a better balance of parenting between the genders. The only benefits that are likely to remain will be for women (as mothers) in some industries and thus the only workable solution (from a financial basis) for most families will be for traditional sex stereotyped roles – whether this suits the family or not ... This would be a backwards step for men and women and demonstrate[s] a lack of commitment to balanced and flexible working arrangements which give an equal opportunity and support for either gender to take on family commitments.³³²

HREOC has commented previously on the WorkChoices legislation in its *Submission to the Senate Employment, Workplace Relations and Education Legislation Committee's Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005*.³³³ HREOC's concerns about WorkChoices centred around its potential impacts on:

- the protection of workers with family and carer responsibilities;
- pay equity between men and women; and

330 Business and Professional Women, Submission 109.

331 Alison Preston, Therese Jefferson and Richard Seymour for WiSER - Women in Social & Economic Research *Women's Pay and Conditions in an Era of Changing Workplace Regulations: Towards a "Women's Employment Status Key Indicators" (WESKI) database* Curtin University of Technology September 2006, pp 3-20.

332 Mark Dossetor, Submission 155.

333 Human Rights and Equal Opportunity Commission *Submission to the Senate Employment, Workplace Relations and Education Legislation Committee's Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005* Sydney November 2005.

- the protection of employees in vulnerable and lower skilled positions in the Australian labour market.

Some other aspects of HREOC's comments are discussed in section 4.6.

At this stage, it is not possible to measure the full impacts of the new legislation and it remains to be seen whether this legislation will sufficiently protect vulnerable groups of employees (such as workers with family and carer responsibilities) and prevent the gap widening between men's and women's wages.

However, there is clearly significant concern in the community about WorkChoices and in particular the impact of long, irregular and extended working hours on family life. This is particularly a result of the increased focus on individual employer/employee bargaining via Australian Workplace Agreements, which often increase ordinary working hours and allow averaging of wages over extended periods. There is also concern that workers with family/carer responsibilities, largely women, will find themselves trading off wages for family-friendly employment conditions in an individual bargaining environment. This again highlights the importance of continued monitoring of women's wages and employment conditions (see Recommendation 11).

Recommendation 20:

That HREOC, in consultation with the Office of the Employment Advocate, develop community resources to assist women with workplace negotiation and individual bargaining.

4.11 Conclusion

Structural aspects of labour market inequality, such as poor quality part time work, pay inequality, and discrimination against workers who take up family-friendly policies interact to produce unfair outcomes for both women and men who need to combine paid work with care. Men working long hours miss out on family life and are unable to contribute fairly to caring work while women who cannot get enough hours of work or reasonable conditions at work miss out on the economic and social benefits of paid work.

With unequal pay and a highly gender segregated workforce many couple families cannot make a genuine choice to share care in ways that differ from the default option of full time male breadwinner and part time or full time female primary carer. Genuine family-friendly policies and workplace flexibilities that do not enforce gendered stereotypes of caring or unfairly disadvantage those who use them are needed. Workers with caring responsibilities for older people and people with disability require equal access to family-friendly policies that already exist in some workplaces. In addition, cultural barriers in the workplace also work against the implementation of existing family-friendly policies.

A choice to be either a full time worker or a full time carer with poor access to quality flexible working conditions is too limited a choice and is not sustainable for individuals, their families or for a nation that needs higher workforce participation and skilled workers both now and into the future. However, sharing care in a family by two partners working part time or carers working flexibly as caring responsibilities change over the life course is a real possibility when the career and financial penalties for doing so are lessened.

The series of measures as recommended above and a comprehensive re-think of paid work and family arrangements in the workplace are necessary to institute a shared work – valued care approach that incorporates all types of caring across the life cycle.

Chapter 5: Striking the balance in the family

5.1 Introduction

A more equitable sharing of unpaid and paid work across society relies on the decisions made by individuals within the home. It is within households and their extended family networks that choices about reconciling paid work and family/carer responsibilities take place, particularly those relating to who undertakes care and other unpaid work. Daily choices about who in a family does the dishes and who works overtime can have cumulative and long term consequences on paid work/care balance, ultimately limiting some men to a breadwinner role with insufficient family time, and women to an unpaid carer role that leaves them with diminishing paid work opportunities. These seemingly “private” decisions are in fact shaped by the public context in which they are made: for example, the employment options available to families in particular communities, the availability of child and aged care, or the taxation implications of re-entering the paid workforce.

Further, while attitudinal research shows that 90 per cent of Australian men and women believe in sharing parental care,³³⁴ decisions about how paid and unpaid work should be arranged are often affected by assumptions and stereotypes. Submissions and consultations made it clear that many Australian men and women would like to better share paid work and care but feel unable to make this a reality.

As noted in Chapter 2 and in the *Striking the Balance* discussion paper, Australian women currently carry a much greater load of unpaid work in households, including child care, elder care and housework than men.³³⁵ This greater responsibility for unpaid work is not limited to women in couples who have chosen to adopt traditional male breadwinner/female caregiver roles. Survey data shows that in couples where men and women both work full time women undertake more than twice the amount of housework as men.³³⁶ Women who undertake paid work, particularly mothers, experience severe time pressures as a result and these pressures have been linked to negative outcomes such as poor health.³³⁷ The greater responsibility that women carry in for unpaid work in the home disadvantages them in the labour market.³³⁸ There is also evidence that family relationships suffer due to lack of balance in unpaid work in the home.³³⁹

If men and women are to be supported to make the choices that best meet the needs of them and their families, more needs to be done to change attitudes and assumptions around paid work and unpaid care work. This includes awareness-raising at the community level, including formal and informal education from the early years

334 Ninety percent of Australian men and women agree that a father should be as heavily involved in the care of his children as the mother: Ann Evans and Edith Gray “What makes an Australian family?” in Shaun Wilson, Gabrielle Meagher, Rachel Gibson, David Denemark and Mark Western (eds) *Australian Social Attitudes: The first report* UNSW Press Sydney 2005, pp 12-29 at p 27.

335 See *Striking the Balance* discussion paper, Chapter 3 and Chapter 4.

336 See HILDA data Wave 1 analysis conducted by Janeen Baxter, Belinda Hewitt and Mark Western “Post Familial Families and the Domestic Division of Labor” (2005) 36 *Journal of Comparative Family Studies* 4 Table 2, p 27 and discussed in *Striking the Balance* discussion paper, Chapter 3.

337 See discussion in *Striking the Balance* discussion paper, pp 36-37.

338 See discussion in *Striking the Balance* discussion paper, p 57 and *passim*.

339 See discussion in *Striking the Balance* discussion paper, pp 63-65. See also *Relationships Australia 2006 Relationship Indicators Survey* Canberra 2006, p 9.

onward. Specific initiatives for parents, particularly for critical or transitional times in the life course, would contribute to the cultural and institutional change that is needed to support a shared work – valued care approach. For men in particular, targeted programs and services that help break down the barriers to men's participation in caring work have proven to be useful for achieving individual and collective change.

This chapter draws on submissions received and HREOC consultations and focus groups to paint a picture of the current pressures and supports for sharing care within the family. It then outlines the further development needed in key areas within the education system and the community as a whole to support the choices that Australian families want to make.

5.2 Signs of change

Submissions to HREOC and our consultations with the public raised many barriers to men's greater participation in caring and other forms of unpaid work.³⁴⁰ However Australian men also told HREOC that they want to share care, and in many cases are already doing so, particularly care of their children.

I think fathers' expectations ... are changing generationally. They expect to be more involved, certainly with the younger ones they are ... more committed to the relationship and want to be involved as fathers.³⁴¹

I found in my first marriage that I was the breadwinner and that I was missing out on so much with my daughter ... Yes, [my partner] wanted me home more but also wanted all the material things. I couldn't see how I could be at home and give her everything she wanted. With [my daughter] I now I find I would rather be at home with her. I want to be more involved with my child's life.³⁴²

I always tried to put work around things. Even when I was with my wife and working full time I always left work early one day a week to pick the kids up from school to spend the afternoon with them. For the rest of the week I was getting home at 7 pm at night 4 days a week. I didn't want to come home and see the kids briefly at night and then be taking off to work the next morning without seeing them.³⁴³

We have a number of dads in our program who have given up work to care for children.³⁴⁴

The guys that we are supporting, from whatever socio-economic situation, the guys are taking an increasing role ... in bringing up their kids.³⁴⁵

These examples demonstrate that despite the barriers to sharing care – some of which are discussed below – there are some positive signs of change which should be fostered on the home front as elsewhere in society. Without down-playing the statistics on unpaid work nor the reality of the barriers and pressures working against men's greater involvement with their families, it is important to support men's engagement in unpaid work by acknowledging the men who are already leading such change.³⁴⁶

The following comments provided to HREOC emphasise the positive and still evolving nature of this social change.

340 These barriers are discussed throughout this chapter.

341 Community consultation, Sydney, 9 November 2005. Similar views were also expressed in HREOC Focus group 10, August 2005; and Union consultation, Canberra, 5 September 2005.

342 HREOC Focus group 16, January 2006.

343 HREOC Focus group 16, January 2006.

344 Community consultation, Sydney, 9 November 2005.

345 Community consultation, Sydney, 9 November 2005.

346 This point is also made by mensplace, Submission 124.

In general, fathers still plan their family time around the demands of work time while mothers tend to plan their work around the family needs. However, the role and aspirations of fathers are changing. They want more time with their families and a closer involvement with their children, but are wary of the consequences for their careers. Where men do take time off work after having a child, the bonding that results has lasting and positive effects on the father-child relationship.³⁴⁷

I think a lot of men are acting like pioneers ... forging their own way, but I think it's still not completely accepted that men might take on the role as the primary carer of their children.³⁴⁸

What is occurring is a quiet men's revolution ... noticed as men talk about achieving a better balance between work and family demands ... seen by how men behave differently as they walk hand-in-hand with their children and proudly push the pram.³⁴⁹

Translating these signs into widespread social changes in the way we manage paid work and care is a challenge given the many factors which influence decision-making within Australian families. In spite of widespread acceptance of egalitarianism, there is a lack of cultural and structural support for a shared work – valued care approach. Encouraging and supporting men to be more involved in caring tasks is an important part of lessening the domestic and caring load that women currently carry. The educational and awareness-raising activities discussed below will, in combination with other recommendations made by HREOC, enable men to participate more fully in care giving. In time, having more men involved in unpaid work may even increase the status of the work in addition to encouraging greater social acceptance of men, and in particular fathers, as carers.

5.3 Changing family structures require additional social support

Strong community support for combining paid work and care is essential in light of changing family and community structures.³⁵⁰ Attitudes about gender in terms of paid work and caring have changed greatly in recent years as the result of widespread economic and social change and the influence of social movements.³⁵¹ Working patterns have changed for men and women, families have diminished in size and the population has generally become more mobile. These social changes have meant that opportunities for distributing care responsibilities informally through familial and community networks have lessened. Work intensification and long hours have squeezed the time available for families to provide care with the result that more outside assistance is often needed to help with managing care responsibilities.

Australian families are more diverse, complex and changeable than ever before, but despite this diversity, HREOC has heard that many families who differ from the male breadwinner/female homemaker norm (or homemaker with a small amount of part time work) do not feel supported to make the paid work and care decisions that are right for them. For example, traditional attitudes and stereotypes about women being best placed to provide care can make it less likely for men to feel supported as they take on caring work. This is also the case for families who experience multiple layers of disadvantage and those with multiple caring responsibilities.

347 Families Australia, Submission 50, p 6.

348 Community consultation, Melbourne, 17 August 2005.

349 Andrew King, Submission 173.

350 See further discussion in Chapter 2, section 2.3 and throughout Chapter 9.

351 See *Striking the Balance* discussion paper, pp 111-115.

Regardless of family type or circumstance, all families must make decisions about how to organise their paid work and family/carer responsibilities, including how they distribute unpaid and paid work between family members. Decisions about managing paid work and care will also inevitably change as care needs change over the life course. These decisions play a key role in developing an integrated model of paid work and care. Incorporating contemporary social attitudes towards sharing paid work and care within a framework that supports shared work – valued care is a key part of supporting families to make decisions that best meet their needs and preferences.

Breaking down unhelpful stereotypes about gender and caring roles and supporting change through awareness raising and education is an important part of this process, particularly as a way of ensuring that attitudinal change is matched by behavioural change in the home. While attitudes have changed and continue to change, this does not, as noted in the *Striking the Balance* discussion paper, necessarily translate into change in practice in terms of sharing unpaid work. HREOC has found evidence of a desire among many families to share caring responsibilities better. Yet HREOC has also heard of many institutional and cultural barriers to doing so.

5.4 Translating values into reality

While Australians value caring work in principle, this does not translate into social recognition of care, as unpaid care of family members is commonly treated as a private matter without broader economic and social benefits. Similarly, while Australians believe that both domestic and caring work should be equally shared by men and women, the reality is an unequal division of labour.

Unpaid work is socially undervalued

It is clear from HREOC's consultations, the submissions that have been received and wider public commentary that most Australians place a high value on equality and fairness, in the home as in other areas of life. We place a high value on unpaid work, including volunteer work within the community, caring for relatives, friends and neighbours in need and caring work within individual homes.³⁵² Motherhood and increasingly fatherhood are valorised for their contribution to raising new generations of Australian citizens who in turn become citizens, workers, consumers and tax payers helping to support current and future generations. As one submission put it:

In its simplest form, our social structure would collapse without unpaid carers as the home is the primary site for development and early knowledge acquisition. One must recognise that child rearing is an investment in the future and that to insure sustainable social cohesion and social capital we must then recognise the importance of raising the future generation. Having a baby is not just about one person making a life style choice, it is about a family unit contributing to society's future by shaping their child into a productive, contributing member of our society's future.³⁵³

On the other hand, while many individuals and organisations who have commented to HREOC personally value caring and other unpaid work highly, they also note a general undervaluing of this work within society and a squeezing of the time available to do it. As a submission from an individual explained:

The most meaningful work I have undertaken has been in caring for family members including my cousin, father, grandfather and mother. I agree that such work appears devalued in our society but makes a vital contribution,

352 See, for example, Rebecca Fowles, Submission 37; COTA National Seniors Partnership, Submission 40, *passim*; David Wilkes, Submission 68; and Shop Distributive and Allied Employees' Association, Submission 71, p 26, p 27 and p 29.

353 Rebecca Fowles, Submission 37.

not least of all economic, to the well being of the country ... I would also concur that we are under ever greater working pressures. My contribution to this paper has been limited because there are just not enough hours in the day.³⁵⁴

A number of contributors commented on the gendered nature of paid and unpaid work and the effect that this has on the value of unpaid work.³⁵⁵ One submission connected the undervaluing of unpaid work with men's willingness to undertake it:

... the contributions made to our nation by those who care for children and undertake other unpaid family work are seen as secondary, if they are seen at all, to the contributions made by those in paid employment. There is little incentive for greater numbers of men to take up unpaid family work while it remains undervalued.³⁵⁶

Overall, submissions and consultation participants were in agreement on the social value of care as well as the economic value of care, with some submissions pointing to studies which estimate the worth of care in economic terms.³⁵⁷ A key piece of the paid work and care puzzle, however, is the reconciliation of what we say we value with our daily practices. What we value and what we actually do can vary considerably, as some studies have shown.³⁵⁸

Expectations of equality are not being realised

Attitudes to sharing caring and housework among Australian men and women show strong acceptance of flexible and egalitarian gender roles, with research indicating that men and women believe that housework and parenting should be shared, not divided by gender.³⁵⁹

Expectations of equality are strong among young people, and seem particularly so among young women.³⁶⁰ However these expectations can clash with the current realities of combining paid work and caring work. A submission from the YWCA Australia noted:

The experience of YWCAs in Australia shows that while many girls and young women grow up believing that men and women are in principle 'equal', it is when paid work and family responsibilities collide that women first recognise that we have not progressed as far towards equality as first thought, and that the family and caring obligations of her mother's and grandmother's generations are quickly, and unexpectedly, becoming her own. YWCA Australia identifies these differences in social expectations for women and men as a key factor dictating women's lives. Many young women members of the YWCA feel the pressure to have children is coming from all directions,

354 David Wilkes, Submission 68.

355 See, for example, Rebecca Fowles, Submission 37; UnitingCare Burnside, Submission 100, p 3; Marty Grace, Mary Leahy & James Doughney, Submission 114, p 4; and mensplace, Submission 124.

356 Australian Baha'i Community, Submission 91, p 8.

357 See, for example, COTA National Seniors Partnership, Submission 40, p 4; National Carers Coalition, Submission 177; and Attachment 1, p 8; Submission; Australian Education Union, Submission 119, p 15; and Shop Distributive and Allied Employees' Association, Submission 71, p 27. See also Chapter 8, section 8.3.

358 See *Striking the Balance* discussion paper, pp 53-54.

359 Michael Bittman and Jocelyn Pixley *The Double Life of the Family* Allen and Unwin St Leonards 1997, p 145. See also other research cited in *Striking the Balance* discussion paper pp 53-54 and Ann Evans and Edith Gray "What makes an Australian family?" in Shaun Wilson, Gabrielle Meagher, Rachel Gibson, David Denemark and Mark Western (eds) *Australian Social Attitudes: The first report* UNSW Press Sydney 2005, pp 12-29 at p 27.

360 See, for example, YWCA Australia, Submission 93; Third Year Honours Students, Work and Organisational Studies, School of Business, University of Sydney, Submission 128; and Chilla Bulbeck "The Mighty Pillar of the Family: Young people's attitudes to household gender arrangements in the Asia-Pacific" (2005) 12 *Gender, Work and Organization* 1, pp 14-31.

including the Federal Government with their once off Baby Payment incentive.³⁶¹

Another submission based on a study conducted by university students showed a mismatch between aspirations for an ideal of egalitarian sharing of unpaid and paid work and the likelihood that they would be realised.

The findings of this study indicate that there is a willingness amongst [male] students to deviate from the traditional male-breadwinner model. There was an evident desire to 'share the load' with respect to family commitments however the respondents perceived a shortcoming in their ability to do so due to perceived societal, economic and organisational constraints. Similarly, when discussing the issue of family-friendly policies in the workplace, the respondents did not appear to be reticent to use such benefits if they existed due to the fear of adverse career consequences but rather, they did not expect such policies to be made available. Thus, there appeared to be a conflict between changing aspirations and peripheral pressures.³⁶²

This submission also noted a gap between male respondents' initial use of the language of equality with regard to unpaid work and their future expectations.

The 'new man' rhetoric utilised by the participants in response to initial questioning was undermined in the majority of cases by later responses in regard to child care, and becoming a 'stay-at-home-dad'. In many cases there were unspoken assumptions that their partner would bear the greater responsibility for child care. Thus whilst the men utilised language that emphasised equality, it seemed that in reality they expected their wives to relinquish their careers (at least for a period) to raise their children.³⁶³

A number of submissions provided the stories behind the time use statistics cited in the *Striking the Balance* discussion paper. Some painted a stark picture of inequity within the home and its associated frustrations, for example:

My views about equity in the home? It doesn't exist!³⁶⁴

... I believe that equity in parenthood doesn't exist and from my experience, I will only be having as many children as my mum and I can cope with!³⁶⁵

Some laid down a challenge to men to engage in household work.

Men need to accept responsibility for housework. Until they do, as long as they continue to rest in times when they are not work rather than doing housework, we cannot achieve equality. Housework and caring for children and elderly people is unpaid, low status, repetitive, but necessary work. Men simply must move into the domestic sphere and take responsibility for this work if they wish to live in an equal society.³⁶⁶

Other submissions highlighted the need to create the conditions under which men and women could make decisions on the basis of equality. For example, one submission notes the different structural and cultural factors behind men's lower participation in unpaid work.

It is suggested that while many Australians believe in the equal sharing of caring roles and unpaid work, this is probably an in-principle position, based on the assumption that all other factors being equal. The likely reason for

361 YWCA Australia, Submission 93.

362 Third Year Honours Students, Work and Organisational Studies, School of Business, University of Sydney, Submission 128, p 27.

363 *ibid*, p 49.

364 Julie Blyth, Submission 13, p 1.

365 *ibid*, p 4.

366 Emma Hawkes, Submission 20.

the difference between stated values and reality are that others factors are not equal. This suggests the appropriate focus of future initiatives to address gender imbalances in caring and unpaid work are the institutional and other barriers that prevent those values being put into reality.³⁶⁷

The ongoing influence of gendered caring roles was considered a major factor by some in preventing greater participation by men in unpaid work. As one submission argued:

Existing gender roles are such that men's paid work is often viewed to be 'compulsory' (it is their primary obligation/responsibility), while their unpaid work is considered more 'optional' (if they don't do it, it will still get done by their partner). In contrast, women's unpaid work is often viewed to be a 'compulsory' element while their paid work is considered more 'optional' (if they don't do it, it will still get done by their partner).³⁶⁸

Others highlighted cultural factors such as ethnicity as shaping the decisions men and women make about sharing care and other unpaid work.

In our community if a dad stayed at home it is looked down on. They will be like, 'what is he doing?' It's like he is not a man.³⁶⁹

Many men raised the issue of women's "gatekeeping" (control over household tasks) as a barrier to their greater participation.

The greatest obstacle I came up against in spending more time with my children was their mother's gatekeeping. I was criticized alternatively between not doing enough around the house, and not doing it right. A no win situation for myself and my children ...³⁷⁰

Again reflecting the time use statistics, many submissions noted that the birth of a child was a critical point at which gendered patterns of unpaid work took hold. As one focus group participant said: "Before the baby was born we had fairly equal sharing of housework".³⁷¹

Other women noted the need to negotiate differing standards and let go of the power they exercise within the home in order to facilitate better balance in unpaid work.

My liberation lay in backing off and letting him do the unpaid work. No other woman would let her husband cut their daughters hair. He gets kids to child care: they often look awful, hair sticking up, wrong socks. But if you back off it happens.³⁷²

Towards equality in paid and unpaid work

Given the strong historical and cultural stereotypes about caring as women's work it is not surprising that men and women organise their paid and unpaid working arrangements accordingly.³⁷³ Coupled with workplace arrangements and policy levers that favour gendered caring roles adopted by men and women,³⁷⁴ stereotypes around caring act as strong incentives for maintaining the status quo. Yet as noted in Chapter

367 Government of Western Australia, Submission 126, p 3.

368 Men's Information and Support Centre, Submission 81, p 2.

369 HREOC Focus group 2, February 2005 and HREOC Focus group 3, February 2005. See also Angela Campbell, Submission 156.

370 Maurice Mok, Submission 2.

371 HREOC Focus group 2, February 2005.

372 HREOC Focus group 6, February 2005.

373 See discussion in section 5.8.

374 These are discussed throughout Chapter 4 and Chapter 6.

2 and throughout the *Striking the Balance* discussion paper, the individual, social and economic costs of not changing are great and affect men as much as women.

Incorporating men's perspectives and supporting men to develop capabilities in the area of unpaid work, particularly in terms of caring for children, is an important part of developing an integrated approach to paid work and care. Some submissions expressed disappointment that men's views and contributions were not adequately represented within public discussions. As one individual submission wrote:

What irks me ... is that men seem to get all of the bad press about this ... Until the debate is fairer and informed by a men's perspective, it will continue to limp along, with incremental change; women will complain and men will be silent.³⁷⁵

Some submissions to HREOC argued that men already do a lot of unpaid work and that the pressures of maintaining a full time work load with caring responsibilities were immense. For example:

I was a mental health community unit team-leader with responsibility for about 16 staff and 3 psychiatrists to work with. The unit was grossly under-resourced ... At the same time we had three children under nine at home, and I used to do a very fair share of house work. My wife worked part time about 15-26 hours per fortnight as a waitress. I would mind the children, give them dinner etc on weekends and evenings when my wife worked. I was studying Uni, 1-3 units per year as I desperately wanted to get out of my profession due to the combined pressures of chronic under-resourcing and complaints. I ended up not sleeping very well at all and life became a grind.³⁷⁶

While there is plenty of anecdotal evidence to support this view, and undoubtedly there are many men undertaking a lot of unpaid work, this view is not supported by the comprehensive time use data used throughout the *Striking the Balance* discussion paper. Clearly time use figures are averages and as such it is likely that there are some men who undertake a lot of unpaid work at one end of the spectrum and many more men at the other end of the spectrum who undertake very little. As noted above, men who are heavily involved in caring and other unpaid responsibilities are well placed to lead social change amongst their own networks.³⁷⁷

Some submissions and consultation participants highlighted the cultural barriers that men face in developing the capacity to care for young children in particular.³⁷⁸ One focus group participant noted in relation to her partner that:

He ... supervises her play and likes looking after her when I'm not home. He would rather take care of her than have my mum take care of her. He didn't like looking after her when she was a baby but now I realize that was because he was frightened he might do something wrong.³⁷⁹

Encouraging men to be involved in sharing care right from the beginning of children's lives is an important part of developing an inclusive response to the challenges of combining paid work and family/carer responsibilities. Evidence to HREOC demonstrated that for some families, this meant letting go of the belief that the caring role "belongs" women, an open negotiation about the roles and responsibilities that best suit the family's circumstance and active support for men to be engaged in child

375 Brett Goyne, Submission 51.

376 Brett Goyne, Submission 51.

377 See section 5.2 and discussion at 4.8 in Chapter 4.

378 Community consultation, Melbourne, 17 August 2005; HREOC Focus group 2, February 2006; Women's Electoral Lobby Australia, Submission 115, p 3; Centre for Women's Studies and Gender Research, Monash University Submission 46, p 4; Phil Jones, Submission 4, p 1; and Joan Garvan, Submission 30, p 1.

379 HREOC Focus group 2, February 2006.

rearing tasks to encourage a sense of ownership of this work. While there is no one-size-fits-all solution for families, introducing the discussion and addressing any issues early in relationship formation and at critical transition points is an important step for making sure assumptions and expectations are well aligned.

These discussions could be supported by the community awareness and education campaigns discussed at later in this chapter.³⁸⁰

5.5 Sharing care

Those families that have managed to realise their goal of sharing both paid work and unpaid care have been very positive about their experience. For example, one father wrote:

I'm a part-time parent, I work 3 days a week, and my daughter's mother also works a three day week as well ... I want to encourage men to ask for 'sharing the load' and also 'sharing the fun' too! Spending time with my young daughter is great! No father should miss out on this time.³⁸¹

A mother who participated in a HREOC consultation said:

In our family, I've recently returned back into the work force and we've worked it so that my husband works 12 days a month and I work 11 days a month. We made the decision to do with fewer material things but to spend more time together as a family ... We afford the mortgage because we decided to do without other stuff. He initially went to 4 days, and then said he would go to 3 days for a couple of years until the boys went to school and no one at his work seemed to mind. We have 3 year old twins.³⁸²

To support these kinds of sharing care in the home, we need to support structural change. Obviously one of the main arenas in which shared care can be supported is the workplace, discussed in sections 4.6-4.8 of Chapter 4. HREOC had heard of men who have wanted to take on a greater role in caring for their children but were unable to find flexible paid work.³⁸³

Another of the practical barriers to sharing care that was identified to HREOC was the lack of father-friendly public spaces that facilitate men's role as primary carers of their children. A common complaint was in relation to a lack of public parents' rooms where fathers feel welcome to take their children. As one submission noted:

The big question when looking at men doing more unpaid work is – is society ready for fathers with young children? Coming from a partnership where the father is the primary care giver I don't think society is. For example while some places do have parent rooms, fathers are not very often catered for. What will my partner do once our daughter is a little bit older, say five years old, needs to go to the toilet and there is no parent room?³⁸⁴

A submission from a father undertaking full time care of his child and management of the household also mentioned this barrier along with a litany of other practical and social difficulties:

... later on in our married life, I took up the reigns [sic] of looking after the family and home while she took up an 18 month learning opportunity. Apart from the inevitable disasters on the home front with an inexperienced dad at

380 See also discussions of educational activities in Chapter 3 and Chapter 4.

381 Phil Jones, Submission 4.

382 Community consultation, Darwin, 22 September 2005.

383 HREOC Focus group 10, August 2005. See also discussion throughout Chapter 4.

384 Rebecca Fowles, Submission 37.

the fore (I could write a book), it was humbling and at times humiliating to be a stay at home father. I found my self socially isolated and lonely. Normal social occasions that are available for mums, such as tennis mornings, church get togethers, and craft mornings were not available to me. I was asked not to come or was still as isolated as before, with the mums at one end of the room and I stuck at the other. Many people had significant problems with me being a stay at home dad. Basket ball or squash mornings didn't have childcare available for the men's comps. The local mums would stay away because they were afraid of gossip etc. Many times I have had to change nappies in various places when there was a family room available but others strongly indicated that this was not the place for a guy.³⁸⁵

These environmental and workplace factors are reinforced by the often unspoken social attitudes about gender and care that pervade everyday consciousness and practices. A number of submissions commented on the effects of social attitudes and the way they can mitigate against sharing care.³⁸⁶ For example, one consultation participant noted that "Many [union] members are saying it is ok if you are a single mum but if you are a single dad there is this attitude: 'What are you looking after kids for?'"³⁸⁷ Others noted that the social attitudes discouraging sharing care can be deeply ingrained, even among those people who are trying to challenge them.

There is still a lot of community bias about fathers being involved. The number of men who call themselves 'Mr Mom' or say 'I'm babysitting the kids!' That is from the men themselves let alone anyone else.³⁸⁸

While women's responsibility for the bulk of caring tasks represents a cost to women in terms of time, energy and missed opportunities outside the home, for men it represents a loss of opportunities to enjoy family time and to bond with their children. Those men who separate from their partners may find that maintaining a role in their children's lives is complicated by the limits to their involvement before separation.³⁸⁹ HREOC has heard evidence that men are becoming aware of the potential cost to familial relationships of a limited caring role.

Many men know that if they don't get involved in the family, the relationship will end in separation.³⁹⁰

In combating these attitudes, education plays an essential role, particularly in terms of positive role modelling.

There is a place for awareness raising at a lot of levels. Pro fathering and pro sharing family roles, where you see couples working together. There needs to be awareness of it operating. And the benefits of doing that.³⁹¹

Role modelling in the home and in the practices of ordinary families is likely to have a positive effect beyond the capacity of formal education campaigns and programs. As a consultation participant noted: "Role modeling can have an impact – the more men doing the primary care the more they see it as ok to do."³⁹² The cumulative effect of greater numbers of men engaging in unpaid work, particularly that undertaken in

385 Bob Hodgson, Submission 58.

386 See, for example, Rebecca Fowles, Submission 37; Joan Garvan, Submission 30, p 1; and David Wilkes, Submission 68.

387 Union consultation, Canberra, 5 September 2005.

388 Community consultation, Sydney, 9 November 2005.

389 This point is discussed in the *Striking the Balance* discussion paper, pp 64-65.

390 Community consultation, Sydney, 9 November 2005.

391 Community consultation, Sydney, 9 November 2005. See also Country Women's Association of NSW, Submission 73, p 2. See also section 5.8 for a discussion of community education and awareness raising campaigns.

392 Community consultation, Hobart, 11 August 2005.

public, is likely to change gendered caring stereotypes over time if combined with other structural and cultural changes outlined in this paper.

5.6 Distributing household tasks fairly

As noted above, the way that men and women divide up household tasks can have a long term impact on their roles as parents and paid workers.

As discussed in the *Striking the Balance* discussion paper, it is not only the amount of unpaid work that differs for men and women, it is the kinds of tasks that men and women undertake.³⁹³ For example, time use statistics show that women tend to do more of the daily household tasks that cannot be put off such as food preparation and clean up, while men tend to more of the less frequent tasks, such as lawn mowing.³⁹⁴ Men are also less likely to be involved in physical caring tasks such as bathing and feeding of children, which need to be performed daily, and more likely to be involved in discretionary tasks such playing with or talking to children.³⁹⁵

However there is time use data that shows that men undertake unpaid work at greater levels on weekends.³⁹⁶ This indicates that men want to be more involved and will be at times when they are less likely to be undertaking paid work or commuting.³⁹⁷

Some submissions and comments provided to HREOC highlighted different parenting styles and some argued that men have a particular style of parenting that revolves around activities such as playing.³⁹⁸ While play is clearly very important for children both developmentally³⁹⁹ and in terms of bonding with parents, the result is that the bulk of the necessary household tasks often remain with the mother.⁴⁰⁰

While men continue to largely perform household and caring tasks that are sporadic or discretionary, such as garden maintenance or playing with children, they are free to take up other work and leisure opportunities without too much disruption to the family. As long as women retain ultimate responsibility for the house and care arrangements, and while they perform the daily and necessary household tasks, such as cooking and cleaning, their capacity to undertake paid work or to have a healthy paid work and family/care balance with sufficient rest and leisure will be compromised.⁴⁰¹ A comment from a submission summed up the difference and its emotive effect as many women perceive it.

The question for me personally is why in our household, I feel guilty if I am away from family, whereas my husband merely misses the family. This seems to be a recurring theme amongst my friends. Their partners are involved,

393 See overview and discussion of time use statistics in the *Striking the Balance* discussion paper, pp 29-33.

394 See Michael Bittman and Jocelyn Pixley *The Double Life of the Family* Allen and Unwin St Leonards 1997, pp 97-101 and Lyn Craig "Does Father Care Mean Fathers Share? A comparison of how mothers and fathers in intact families spend time with children" (2006) 20 *Gender and Society* 20 2, pp 259-281.

395 See *Striking the Balance* discussion paper, pp 32-33 and Lyn Craig "Does Father Care Mean Fathers Share? A comparison of how mothers and fathers in intact families spend time with children" (2006) 20 *Gender and Society* 20 2, pp 259-281.

396 See Lyn Craig *The Hidden Cost of Parenthood: The impact of children on adult time* PhD Thesis School of Social Science and Policy University of New South Wales 2004, p 179 www.sprc.unsw.edu.au/people/Craig/TheHiddenCostofParenthoodTheImpactofChildrenonAdultTime.pdf.

397 See discussion throughout Chapter 4 of workplace barriers to shared care and discussion of commuting times in Chapter 9 (section 9.2).

398 See Maurice Mok, Submission 2; Community consultation, Melbourne, 17 August 2005; and Community consultation, Sydney, 9 November 2005.

399 See James Johnson, James Christie and Thomas Yawkey *Play and early childhood development* Longman New York 1999, pp 25-52.

400 See *Striking the Balance* discussion paper, p 26 and p 32 for further discussion on this point.

401 See *Striking the Balance* discussion paper, p 33.

committed, caring, supportive with children, and they *help*. But they don't take the *responsibility*. None of us are entirely sure why that is.⁴⁰²

Distributing household and caring tasks more evenly can be a challenging endeavour for families for a range of reasons, including reasons not entirely under their control. A submission from the Women's Electoral Lobby Australia highlights some of the issues involved in trying to share caring and other household tasks.

Even where care is shared between parents on a fairly equitable time basis after separation, there is anecdotal evidence that the management of the tasks and therefore the primary responsibilities for their completion rests with the mother. This is based on the 'can I help with' model of sharing rather than the true shared responsibilities for the role not just the tasks ... Men may find greater commitment to the domestic daily tasks of parenthood both a pleasure and a threat. They have to accommodate to big changes in their relationships, and shifts in their financial resources. Some want to take active roles in care but find that this is not seen by workmates and managers as a role they approve of. They may find, like some women in similar situations, that they are faced with workplace demands that paid jobs are deemed to be their priority around which they fit their other requirements. They may also find their definitions of sharing not the same as their partners. Some women who take time out and diminish their career options because they put mothering first, may be unprepared to share the tasks and responsibilities. This may be more acute where men may want to take on the pleasant care tasks but not the less pleasant ones eg the cleaning and the nappies, as is shown in some time use studies.⁴⁰³

For men to take ownership of household and caring work rather than just to "help out", particularly in terms of the time-critical tasks that need to be done and which most affect decisions about workforce participation, change is required in a number of key areas, such as workforce structures and cultures, as discussed above.⁴⁰⁴ Community awareness raising and educational activities, as discussed later in this chapter, are also key supports that will equip men with competency, confidence and sense of entitlement for the tasks of caring and household management. In a practical sense this could mean attending parenting classes either with partners or separately, reading parenting materials, joining a local parenting support or fathers group, or developing relationships with other people in their children's lives (such as schools, friends and teachers). For couples, equipping and supporting men to share care may also mean negotiating standards for housework and scheduling time for fathers to be alone with children so that they can take charge of the role. For women, as noted earlier, this may involve a process of letting go of some domestic control. As one consultation participant who works with parents explained:

The primary issue that the mothers come in with is control. How do I control the kids? How do I control him? You have to educate mums to let go of control of the kids and the household.⁴⁰⁵

Sharing care well also means considering the spread of unpaid and paid work across the life cycle. Considered across the life course, fairness for some families may mean that care is undertaken full time by one parent for a particular amount of time and by another parent for another amount of time, or with various combinations across the course of parenting. For many couple families, especially those who cannot afford to have both parents out of the workforce for long, it may be that having the female partner engaged full time in caring in the early period of children's lives is the most

402 Natalie Smith, Submission 43, p 1. This point was also raised in HREOC Focus group 2, February 2005 and HREOC Focus group 10, August 2005.

403 Women's Electoral Lobby Australia, Submission 115, p 11.

404 See discussion throughout Chapter 4.

405 Community consultation, Sydney, 9 November 2005.

appropriate decision. As a submission from the Women's Action Alliance pointed out, equality in paid and unpaid work does not necessarily mean equal amounts at all times.

Family life is a partnership between parents. The best functioning families tend to think of the welfare of the family unit as a whole, rather than equal divisions of labour. This will mean that at various times in the life of the family one or other parent may do more or less unpaid work.⁴⁰⁶

However, decisions about who provides the most care in the early period of children's lives should ideally not prevent one parent from being involved in care or prevent them from taking on greater caring responsibilities at other times. A true partnership approach to parenting and other care responsibilities must aim for maximising choice and opportunity for both women and men, whether this is the choice to care, the choice to participate in paid work or combinations of both. Decisions about sharing care should also aim to incorporate any current and (where predictable) likely future caring responsibilities across the life course to include elder care or care for people with disability, as discussed below.

5.7 Caring for people beyond the home

With increasing numbers of single person households it is important to consider these issues outside of "the home" as a distinct unit and consider family and other forms of care across households and within communities.⁴⁰⁷ Demographic changes such as fertility rates below replacement rates will mean that many more people will not have family members living with them as they age. Providing support and care for people outside of one's home is likely to become a larger part of what we consider to be family and carer responsibilities. In this respect family and carer responsibilities in future may become more like those of Indigenous family networks, same-sex networks and extended family networks in many culturally and linguistically diverse communities where the concept of care is often considered in a broader sense beyond the nuclear family structure.⁴⁰⁸ Grandparents and aunts, for example, often play a large role in caring for relatives in these families. Step and blended families may also have a broader approach to sharing care.

This point also raises the need to consider care as a community responsibility, rather than simply that of individual households. Stronger community networks, as discussed in Chapter 9, are needed if all people are to be adequately cared for as cities expand and the population ages. This is particularly important for elder care, as many older people are choosing and often encouraged through aged care policies, to remain in their own homes as they age.⁴⁰⁹

As with caring for children, currently it is women who take most responsibility for elder care, and the statistics cited in the *Striking the Balance* discussion paper are backed up by HREOC's consultations with the community.⁴¹⁰ One focus group participant described her experience as the primary carer for her mother.

I was looking after my mother for a year, after my father died. My two brothers didn't help look after mum. One brother was overseas and the other brother would visit once a month or call me to go around and see her.⁴¹¹

406 Women's Action Alliance, Submission 85, p 11.

407 See ABS *Household and Family projections, Australia 2001–2026* 2004 Cat No 3236.0 p 1 and ABS *Year Book Australia 2006* Cat No 1301.0, pp 139–144.

408 Community consultation, Darwin, 22 September 2005, p 7 and Anna Chapman, Submission 83, pp 5–7.

409 See Chapter 8, and in particular, section 8.2 for discussion of aged care policies facilitating in home care for older people requiring care.

410 See *Striking the Balance* discussion paper, pp 39–45.

411 HREOC Focus group 2, February 2005.

Unlike parenting responsibilities, elder care responsibilities can be much more sporadic and unpredictable, and may fall to one family member regardless of choice or preference.⁴¹² As one focus group participant noted:

I've got an elderly mum – my husband doesn't get on with her so it's just me. I organise things for her, sometimes she needs help with translation. Her needs are sporadic. I probably spend 2-3 hours a week with mum.⁴¹³

Similarly the care needs of people with disability may differ according to the type of disability or condition. Caring for people with mental health conditions, for example, may also involve sporadic and unpredictable needs for care.⁴¹⁴ Further, a more mobile population means caring responsibilities may not be able to be spread across siblings or other family members.

It is also likely that with smaller families and greater labour market participation by women, particularly those in the "mid-life" age groups (those aged between 45 and 54), that more male family members will be required to take on responsibilities to care for older people and people with disability who require care.

Men already undertake a significant amount of care for their spouses as they age.⁴¹⁵ Like shared parenting care, gendered stereotypes along with other barriers can function to work against a fair spread of other family and carer responsibilities. However HREOC has also heard examples of shared elder care, particularly among couples. For example, one focus group participant said:

My father-in-law needs extra care, my husband takes him to appointments. When I was on holidays I looked after his post-op stuff. I've taken time off work to look after my mum. He (husband) helps out with my mum, yes.⁴¹⁶

As with negotiating unpaid care for children and associated household work, caring for ageing relatives and family members with disability should also be factored into household discussions about balancing paid work with family and carer responsibilities.

5.8 Education and cultural change

Many submissions raised cultural change as a major influence on men and women's ability to reconcile their paid work and family/carer responsibilities. Attitudes and behaviours towards caring, such as the perception that it is only women who need to balance paid work and family obligations, are often the result of unquestioned gender assumptions that become entrenched at an early age and need to be actively challenged if they are not to form artificial barriers to balancing paid work and family life.

Gender equality taught in schools and in the community

While HREOC's consultations with the public revealed much faith in generational change, research has shown that despite growing attitudinal change in favour of egalitarian arrangements, behaviours are much harder to shift.⁴¹⁷ Despite decades of social change where women have increasingly entered paid work and more recent

412 See also discussion in Chapter 4 (sections 4.5-4.7).

413 HREOC Focus group 4, February 2005.

414 HREOC Focus group 4, February 2005. See also Queensland Government, Submission 166, p 24.

415 See *Striking the Balance* discussion paper, p 40.

416 HREOC Focus group 4, February 2005.

417 See discussion in *Striking the Balance* discussion paper, pp 111-122. See also HREOC Focus group 1, February 2005; HREOC Focus group 2, February 2005; HREOC Focus group 3, February 2005; HREOC Focus group 8, July 2005; HREOC Focus group 10, August 2005; and HREOC Focus group 11, August 2005. See also Families Australia, Submission 50, p 3.

signs of men's greater involvement with their families, cultural stereotypes still exist. As some submissions argued, these stereotypes work against increasing men's involvement in family and carer responsibilities.⁴¹⁸

A number of submissions argued for accelerating the pace of cultural change by educating children and young people about the importance of gender equality in unpaid work.⁴¹⁹ Some submissions proposed incorporating education about household skills and the work that caring entails for both men and women into high school curricula.

A submission from Business and Professional Women Australia argued:

This issue affects everyone – male and female and future generations. There should be an education component in schools for both males and females on the amount of work it takes to do the housework, cook, shop, care for family members such as young children and ageing parents.⁴²⁰

The Queensland Government wrote:

Integrating 'household' skill development into the high-school curriculum may also be another way of helping to change gender inequity. Skills such as basic cooking, cleaning, washing and home maintenance tasks could facilitate a greater sharing of unpaid work.⁴²¹

Other submissions discussed the importance of broader awareness raising campaigns at national and community levels.⁴²²

The Premier's Council for Women (SA) wrote:

A national education and awareness raising campaign would enable a new culture of gender equity in caring to be publicly discussed.⁴²³

Recommendation 21:

That HREOC develop education materials for use in high schools around the country about sharing care and other unpaid work.

Specific campaigns targeting men were also advocated as ways of breaking down stereotypical expectations and providing support for men to take on caring roles. A submission from mensplace noted the lack of programs that support men to adopt caring roles in the face of the culturally reinforced role of the male breadwinner.

418 See, for example, Men's Information and Support Centre, Submission 81, p 10; mensplace, Submission 124; Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 19. See also the workplace barriers discussed in Chapter 4.

419 See, for example, Australian Bahai Community, Submission 91, p 8; Business and Professional Women Australia, Submission 109, p 5; Queensland Government, Submission 166, p 77; and Emma Hawkes, Submission 20, p 1.

420 Business and Professional Women Australia, Submission 109, p 5.

421 Queensland Government, Submission 166, p 77.

422 See, for example, Premiers Council for Women (SA), Submission 96, p 5; Queensland Government, Submission 166, p 5 and p 86; YWCA Australia, Submission 93, p 6; Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia, and Equal Opportunity Commission of South Australia, Submission 117, p 19; and mensplace, Submission 124. Awareness raising and educational activities are also discussed at further later in this chapter.

423 Premier's Council for Women, Submission 96, p 16.

Historically, the dominant role of fathers in our society is as providers or 'breadwinners'. Significant shifts in society have occurred which have mainly focussed on supporting women's greater participation in the workforce. In Australia relatively few initiatives have attempted to directly support men towards change in their role towards a more balanced lifestyle where work/providing is more evenly matched with other functions (nurturing/care).⁴²⁴

The YWCA Australia wrote:

To address the inequality in expectations between men and women, YWCA Australia encourages HREOC to recommend measures that go beyond mere gender mainstreaming to seeking gender equitable outcomes and creating an environment of social change where men and women play equal roles in paid and unpaid work. This includes providing incentives to men to spend more time on their family, and less on work. These could include ... provision of training and community education programs educating men on their roles and responsibilities as caregivers and legal guardians of children ...⁴²⁵

Families Australia suggested a campaign that targets fathers in paid work.

That a community based awareness campaign be organised that focuses on the needs and aspirations of working fathers, centred on a 'Daddy Go Home On Time Day' or message (in 2003, the Australia Institute sponsored a 'National Go Home on Time Day' on April 19).⁴²⁶

Engaging men in the work of progressing gender equality has been identified as critical at international and national levels, with Ministerial support for more work in this area.⁴²⁷ Educating young people and other members of the community about gender equality through shared participation in caring work would be an appropriate intervention to support and foster positive attitudinal and behavioural change. A national awareness raising campaign is one option that could be led by Australian and/or State and Territory governments. Such a campaign could be designed to operate at national and local levels, and include the use of learning modules for schools.

An educational campaign could draw on the previous work of the Australian Government in the "Sharing the Load" campaign which formed part of Australia's response to the ratification of ILO Convention 156 on family responsibilities.⁴²⁸ The campaign included a range of educational material and resources for families to balance their responsibilities in the home with their paid work. An awareness raising campaign could also draw on successful international campaigns that have worked to dismantle negative gender roles, some of which have included male-specific elements.⁴²⁹ Targeting men with initiatives that promote valuing men as carers and a partnership or co-parenting approach to care of children have been recommended to HREOC as a useful way forward.⁴³⁰

424 mensplace, Submission 124.

425 YWCA Australia, Submission 93, p 6.

426 Families Australia, Submission 50, p 7. See also discussion in Chapter 4 (section 4.8).

427 See Queensland Government, Submission 166, p 5 and discussion in Chapter 1 (section 1.2).

428 See Chapter 3 (section 3.2) for a discussion of ILO 156.

429 See European Commission *Farewell to the Male Breadwinner?* EQUAL Policy Brief at http://ec.europa.eu/employment_social/equal/policy-briefs/etg4-farewell-breadwinner_en.cfm.

430 Australian experts in children's health have highlighted the success of a Canadian campaign funded by Health Canada "My Daddy Matters Because..." (also known as the National Project Fund on Fathering at www.mydad.ca) which includes national radio, television and print advertising, an online searchable user-friendly national index of father activities, services, resources, and programs and a comprehensive "Father Toolkit" that contains much of the current research and practical information to assist services to become more father-friendly: HREOC Advisory Panel member, email correspondence November 2006.

Recommendation 22:

That the Australian Government fund a national multi-media community awareness campaign about workers with family/carer responsibilities, including the diversity of workers and families and with a targeted component for men with family/carer responsibilities.

Relationship and parenting education

A number of submissions and consultations raised the need for greater provision of relationship and parenting education to assist men and women to negotiate shared paid work and care.

A submission from the Women's Electoral Lobby Australia pointed to a general lack of community support for childrearing,⁴³¹ while others noted a particular need for education and service provision for new parents.

There needs to be a core curriculum for antenatal and parenting classes that includes information, strategies and links to relevant services that can assist individuals if they encounter difficulties traversing the kinds of issues identified by 'transition to parenthood' ...⁴³²

The Women's Action Alliance wrote:

The introduction of more universal parenting education aimed at the first time parents could be vehicle for discussing issues pertaining to caring of children and the division of domestic duties.⁴³³

Educating parents about parenting and domestic tasks could also include information about family-friendly workplace arrangements, and link in with current or additional workplace programs. As a submission from Families Australia argued:

Evidence suggests that there is a lack of community awareness of family-friendly work options. There is scope for initiatives to strengthen the links between workplaces and family support services. Such information could be included, for example, in antenatal and parenting information programs. At the same time the concerns of parents about how to improve relationships with their children may be addressed through workplace-based programs. Some employers already provide this.⁴³⁴

Families Australia also recommended that "Government, business, unions and the community sector develop a work and parenting information strategy, to include information about family-friendly work options and tips on how to minimise 'negative spillover' from work to family relationships."⁴³⁵

Other submissions stressed the importance of education and awareness raising programs and supports for men as parents. A submission from mensplace argued for better provision of training and support for men and women but with an inclusive, father-friendly approach.

Create and improve training and education programmes to enhance awareness and knowledge among men and women on their roles as parents, legal guardians and caregivers and the importance of sharing family

431 Women's Electoral Lobby Australia, Submission 115, p 6.

432 Joan Garvan, Submission 30, p 2.

433 Women's Action Alliance, Submission 85, p 23.

434 Families Australia, Submission 50, p 6.

435 Families Australia, Submission 50, p 6.

responsibilities, and include fathers as well as mothers in programmes that teach infant child care development.⁴³⁶

Targeting men as carers through specific educational and support programs is crucial as a way of shifting cultural barriers to men's involvement with family/carer responsibilities. It is also important to incorporate men's role as carers into existing policy frameworks and initiatives, such as those developed under the Parenting Information Project, which has produced a website with specific information for men as well as diverse groups of parents and grandparents.⁴³⁷ Part of this mainstreaming is the development of existing family services and programs so that they adequately address the needs of men as carers. This work is currently underway through various programs funded by Australian and State/Territory governments,⁴³⁸ but could be developed further and with explicit reference to gender equality principles.

A submission from Andrew King argued that promotion of current family relationship services requires improvement in order to reach men.

... there is still a strong belief that men do not ask for help but fix themselves. Promotion of men and family relationship services still needs improvement as many men view the word 'counselling' as a punitive response for workplace misdemeanours (Nixon, 1999). It is still common for men to remark 'I never thought such services existed' when they first come into contact with M&FR [Men and Family Relationships] programs.⁴³⁹

The men's community resource service mensplace suggested five related objectives for developing support for men in their role as fathers and as partners in working towards gender equality in caring responsibilities:

1. Expanding cultural scenarios of responsible fatherhood
2. Facilitating paternal identity and responsible fatherhood in transitional periods
3. Facilitating fathers' direct attachment to their children
4. Reconceptualizing divorce and co-parental relations
5. Promoting men's greater sensitivity to children⁴⁴⁰

Building on work currently underway, these objectives could be incorporated into a broader community awareness raising campaign as part of a national strategy to increase men's involvement in families as carers. This strategy could be developed as part of a broader policy of shared work – valued care, including development of the evidence base around men and caring relationships and good practice principles for working with men in caring roles. This work could build on current initiatives such as the recently developed "National Father-Inclusive Practice Framework".⁴⁴¹ Such a strategy could also extend to other forms of care giving in families, such as elder care, and include specific education and support at critical moments as discussed below.

436 mensplace, Submission 124.

437 Raising Children Network: The Australian Parenting Network (DRAFT) 2006 at <http://raisingchildren.net.au>. This website is an outcome of the Parenting Information Project, which was funded under the Australian Government's National Agenda for Early Childhood initiative.

438 See, for example, Paul van Ryke *Valuing Men Valuing Relationships: Perspectives on masculinity, fathering and working with men and family relationships* Report from the 2004 National Men and Family Relationships Forum, Family Services Australia, Relationships Australia and Catholic Welfare Australia 2004.

439 Andrew King, Submission 173, p 1.

440 mensplace, Submission 124.

441 This framework has been developed by the Family Action Centre at the University of Newcastle with federal Government funding. For further information see <http://www.newcastle.edu.au/centre/fac/efathers/includingfathers/index.html>.

Recommendation 23:

That the Australian Government conduct an audit of Commonwealth, State and Territory programs in family and health services to assess how well they prepare families for sharing care. The audit should include an assessment of current mainstream antenatal and early parenting programs and programs designed for separated fathers in order to identify best practice methods of increasing the engagement of fathers in care work.

Community education at critical and transitional points

There appear to be times in the life cycle when gendered caring arrangements are particularly apparent and have more of an impact on people's lives as they negotiate their paid work and care arrangements. HREOC's consultations and focus groups with parents have indicated a particular need for community education at critical or transitional points such as the birth of a first child or marital separation as a way of involving men in caring responsibilities.⁴⁴²

Education and awareness raising for men so that they can be intimately involved in parenting infants is widely regarded as important for facilitating father involvement.⁴⁴³ A number of submissions and consultation participants noted the need for prenatal classes for men as well as women and early parenting support as ways of breaking down cultural and institutional resistance to men's "hands on" involvement in child rearing.⁴⁴⁴

A submission from UnitingCare Burnside argued that:

Traditionally men have not been seen as the primary caregiver for children. In order for men to become more actively involved in unpaid work and child rearing in particular they require support and training.⁴⁴⁵

A submission from mensplace argued that the birth of a child is an important transition point for men and a window for facilitating their involvement in parenting.

The transition to fatherhood is also a significant opportunity for engagement. Men often are more open to intervention and receptive to new ideas at this time in their lives. Linkages with health services in the antenatal education area should be explored for opportunities to engage young fathers in relationship education programs.⁴⁴⁶

Education for fathers should also include support for men so that they can support their partners at times when the demand for parental care is high. A submission from Paul Whyte highlighted the strain that parenting can place on relationships between men and women.

Mothers often enter a crisis where much of their life dreams and goals may be lost to the endless housework and new parenting ... I have seen men join my network on the edge of divorce due to the resentment of the mum at being forced into the care-taking role. When he has been listened to about all that happened to him as a result, and the part he can take to restoring the balance in the care-taking work, the mum is greatly relieved that her man could help!

442 Community consultation, Melbourne, 17 August 2005; Community consultation, Canberra, 18 August 2006; Women's Action Alliance, Submission 85, p 23; Australian Bahai Community, Submission 91, p 8; and mensplace, Submission 124.

443 See R Fletcher, S Silberberg and R Baxter *Father's access to family-related services Research Report* University of Newcastle, Hunter Families First 2001 and NSW Department of Community Services, Family Action Centre 2001 *passim*.

444 UnitingCare Burnside, Submission 100 and Community consultation, Melbourne, 17 August 2005.

445 UnitingCare Burnside, Submission 100.

446 mensplace, Submission 124.

... While there are many things that make family life difficult that dynamic where dad needs help so he can really help mum is all to[o] common."⁴⁴⁷

The time around the birth of a child has been identified as an important opportunity for men to re-evaluate their own experiences of being parented.

Some men identify the reason for attend[ing] a fathering program is because they want to father their children differently to how they were fathered. The birth of a child is now a 'wake-up call' for many men and an opportunity for them to review the choices they make in life and provides the motivation to develop stronger relationships.⁴⁴⁸

As such, the birth of a child is a time when stereotypes about gender roles and parenting can be positively challenged through parenting and relationship programs devised for men. While there are a variety of programs, support groups and training courses for generalised service practitioners currently operating in this area, they are by no means expansive and tend to be directed towards disadvantaged groups of fathers as opposed to fathers in general.⁴⁴⁹

Some programs such as the Adelaide based Fatherhood Support Project⁴⁵⁰ have already demonstrated the opportunity to engage successfully with men before the birth of their child. This program links in with men who have attended an antenatal class at their local hospital and connects them with groups held for men in the post natal ward where "new dads" can join with "dads to be" to discuss early parenting, the role of fathers and what new born babies are like. Such current programs and initiatives could be expanded as part of a wider campaign for increasing men's involvement in care giving, and include a greater focus on combining parenting with paid work and negotiating shared care and associated unpaid work within relationships.

Relationship breakdown is another period in men's lives that has been identified as a transition point for men. HREOC has received many submissions from men experiencing difficulties with parenting after separation, as well as evidence from consultations with service providers working with men.⁴⁵¹

A submission from Relationships Australia noted:

A majority of non-resident fathers want to spend more time with their children and a large number of non-resident mothers also support this. However, the reality is that the greater value that the labour market places on the father's uninterrupted career makes the ideal of such a balancing out of roles in practice difficult to achieve.⁴⁵²

A submission from the Men's Information and Support Centre noted that paid work and care arrangements in place prior to separation often mean that fathers' opportunities to spend time with their children post separation are lessened.

As the mother has commonly filled the role of primary caregiver prior to the break-up, it is most common that the children end up living permanently

447 Paul Whyte, Submission 123, p 2.

448 Andrew King, Submission 173.

449 Many father's programs and groups are run through welfare agencies, for example, UnitingCare Burnside's New Parent Infant Network (NEWPIN) Fathers program and Anglicare Australia's Fathers and their Children program.

450 Information on the Fatherhood Support Program can be found through the Government of South Australia's Children, Youth and Women's Health Service www.wch.sa.gov.au/services/az/other/nwcfip/fatherhood.

451 Confidential, Submission 130; Confidential, Submission 135; Confidential, Submission 143; Confidential, Submission 150; Confidential, Submission 151; Confidential, Submission 152; Community consultation, Melbourne, 17 August 2005; Community consultation, Sydney, 9 November 2005; and HREOC Focus group 16, January 2006.

452 Relationships Australia Inc, Submission 111, p 6.

with her after separation, limiting the opportunity to spend time with their father, on average, to one weekend per fortnight and school holidays.⁴⁵³

A counsellor who works with men noted that for many men their paid work arrangements create difficulties for men's relationships with their children pre and post separation.

Men's paid work obligations have an immense effect on their relations with their children ... there's hundreds of different stories but very typically it's the truck driver driving the truck all night in the country ... he's away from home and gets into trouble with his relationship because he is not at home. Then his wife decides to break the relationship and he's destroyed because he doesn't have relationship with his children.⁴⁵⁴

Other submissions and consultations highlighted separation as a window for men to create positive changes in their family relationships, noting that a crisis point can precipitate greater interest in and involvement in fathering.⁴⁵⁵ A submission from mensplace noted that:

In cases where fathers' direct attachment to their children has been low prior to separation, it is often notable that there is a new desire to get more involved directly with their children following separation. Rather than treat all such interests with suspicion, or dismissing those out of hand, strategies to support this new desire should be developed and piloted, with due regard to the safety and wellbeing of all concerned.⁴⁵⁶

Submissions highlighted the value of and continuing need for support services for men as parents, particularly following separation or other crisis points.⁴⁵⁷ A submission from Andrew King describes some of the challenges of providing these services to men, noting that:

Until recently, it was not until men approached the end of their life, that they often expressed regret for spending too much time at work and not enough time with their family. This reflection is still experienced today, as many men only start talking about the importance of their family relationships after the crisis has occurred, such as family separation.⁴⁵⁸

HREOC has heard claims of cultural and institutional barriers to men's involvement in child rearing post-separation, including difficulties with government services that do not easily recognise men as primary carers of children.⁴⁵⁹ One submission notes that men from disadvantaged groups often feel disempowered by their interaction with service providers in addition to other factors.

The range of disempowering experiences men report is broad. They may relate more to a man's status as part of a disadvantaged group, to personal characteristics or to circumstances specific to certain settings ... Many men report continuous negative portrayal of men in the media as contributing to their disempowerment. Recent research into men's attitudes to seeking help from community service agencies indicates some men think there is an anti-men bias in community services generally.⁴⁶⁰

453 Men's Information and Support Centre, Submission 81, p 8.

454 Community consultation, Melbourne, 17 August 2005.

455 Community consultation, Sydney, 9 November 2005; Andrew King, Submission 173; Paul Whyte, Submission 123; mensplace, Submission 124.

456 mensplace, submission 124.

457 Andrew King, Submission 173; Paul Whyte, Submission 123; mensplace, Submission 124.

458 Andrew King, Submission 173.

459 HREOC Focus group 16, January 2006; Lone Fathers Association Australia, Submission 19, *passim*; Confidential Submission 48; and Margaret Williams, Submission 56, p 1.

460 See mensplace, Submission 124.

Consultations and submissions also revealed dissatisfaction with cultural imagery that portrays fathers as either incompetent in the home or only as breadwinners, and with corresponding community views about father involvement.⁴⁶¹ Consultations with men made particular mention of the barriers to caring that separated working class men face in going against traditional stereotypes of masculinity which frame men only as breadwinners.⁴⁶²

A national awareness raising campaign could incorporate images of men as carers, with a particular focus on men in traditionally masculine industries and occupations. This broad approach to cultural change would complement and reinforce existing efforts underway within individual agencies to improve their responsiveness to male clients and encourage cultural change within other agencies.⁴⁶³ Increasing numbers of men sharing care and providing full residential care of their children after separation mean that ensuring that mainstream parenting services respond to men's needs as primary carers will become even more important for assisting fathers and breaking down gendered stereotypes of caring.⁴⁶⁴

These issues point to the need for better support for coupled parents negotiating their paid work and care arrangements prior to separation, when gendered patterns of care are initially set in place. While many participants in HREOC consultations mentioned economic considerations as the main driver for deciding how or whether care is shared between couples, others mentioned cultural barriers to men's greater participation such as perceptions about men's capacity to care.⁴⁶⁵ As one focus group participant put it:

Even though I worked part time I never went to playgroup; that is seen as the female domain. You take the kids up to the community health centre and they look at you funny.⁴⁶⁶

Others spoke of the lack of discussion and conscious decision-making within families about paid work and care decisions. For example, in relation to organising unpaid household work, a female focus group participant said:

There are certain things I like him not to try to do because he can't do it ... I give the orders – I don't know why, never thought of it before.⁴⁶⁷

HREOC has also heard of the strain that parenting and the division of paid and unpaid work puts on relationships between men and women.⁴⁶⁸ A male focus group participant said in relation to unpaid work:

461 Community consultation, Sydney, 9 November 2005; Men's Information and Support Centre, Submission 81, p 21; and Brett Goynes, Submission 51.

462 Community consultation, Melbourne, 17 August 2005 and Community consultation, Sydney, 9 November 2005.

463 See, for example, the reforms announced by the Child Support Agency ("Building a better CSA") fact sheets at <http://www.csa.gov.au/bbcsa/overview.pdf> and http://www.csa.gov.au/bbcsa/organisational_change.pdf. See also Patricia Karvelas "Bid to end anti-dad bias in child support" *The Australian* 5 April 2006, p 9.

464 Recent figures show that numbers of men receiving child support is slowly increasing, with men representing more than one in ten parents receiving child support. Numbers of paying male parents having contact with their children for 30 per cent or more nights in a year has almost doubled between 1999 and 2005 – from 4.5 per cent to 8.6 per cent: Child Support Agency *Fathers figure well in children's lives* Media Release 10 April 2006 <http://www.csa.gov.au/media/060410.php>.

465 Community consultation, Melbourne, 17 August 2005; Community consultation, Sydney, 9 November 2005; and HREOC Focus group 16, January 2006. See also discussion at 5.4 in this chapter and discussion of workplace barriers throughout Chapter 4.

466 HREOC Focus group 16, January 2006.

467 HREOC Focus group 2, February 2005.

468 HREOC Focus group 3, February 2005; HREOC Focus group 4, February 2005; HREOC Focus group 5, February 2005; Community consultation, Darwin, 22 September 2005; Union consultation, Melbourne, 14 July 2005; Community consultation, Hobart, 11 August 2005.

Sandra's standards are higher than mine so I stay out of it – I just cop the abuse for not doing it. Oh, on a monthly basis I guess we might fight about the housework. Or when we have visitors.⁴⁶⁹

This impact of the tension between paid work and family on relationships between men and women is one which has been explored in a number of recent Australian books.⁴⁷⁰ As Alison Osbourne writes in her book *The Post Baby Conversation: What new parents needs to say to each other*:

This divergence in the lives of men and women post-baby and the profound changes in the relationship are unexpected. Very few couples realise what is happening and proactively talk and listen before things boil over. Mostly, what happens is ongoing and escalating frustration, anger and resentment. The lack of understanding that begins as a small flicker when a woman gets pregnant can escalate to a frightening rage and leave the couple at war for months, or years.⁴⁷¹

Male focus group participants spoke to HREOC about the impact that their paid work away from the home has on their relationship with their wife and children.

Most drive-in drive-out employees have pretty shaky relationships. Living apart has to put a big strain on [the relationship].⁴⁷²

I do two to five weeks [at work], you come home and you are like a visitor and for a couple of days you feel your way around ... home is an unreal place when you come back and the responsibility is left to the woman whilst you are away. It throws a lot back on their plate that they otherwise might not ordinarily have dealt with.⁴⁷³

A service provider working with men noted that:

While they [parents] might negotiate initially there is a lack of renegotiation later down the track – the initial decision [about who will stay at home and who will work] is made quite naively. This comes up frequently. People tend not to revisit the decision until it reaches crisis point.⁴⁷⁴

Another service provider described the effect of lack of communication about sharing unpaid work:

Relationship breakdown is very typical of what we get [at our organisation] ... people come in to see us with difficulties in their relationship – and there is a lot of separation that goes on – the mantra is 'I've had enough'. It can mean 'I've had enough of having to do everything ... of him working 6 days a week and then taking Sunday off and go[ing] fishing'. Some men shrug it off, some say they didn't know there was a problem. The 'I've had enough' is also 'I've had enough of trying to communicate this' ... About 80 per cent of people that come to counseling come too late so you end up with separation counseling.⁴⁷⁵

469 HREOC Focus group 11, August 2005.

470 See for example Alison Osbourne *The Post-Baby Conversation: What new parents needs to say to each other* Rockpool Publishing Double Bay 2006 and Joanne Fedler *Secret Mothers' Business* Allen & Unwin Sydney 2006.

471 Alison Osbourne *The Post-Baby Conversation: What new parents need to say to each other* Rockpool Publishing Double Bay 2006, p 4.

472 HREOC Focus group 11, August 2005.

473 Community consultation, Kalgoorlie, 12 September 2005.

474 Community consultation, Sydney, 9 November 2005.

475 Community consultation, Darwin, 22 September 2005.

Comments such as these indicate a need to educate and raise awareness among couples early in relationship formation so that ideas for sharing paid work and care can be discussed openly rather than assumed. Opportunities for this exist with the new Family Relationship Centres that have been established throughout 2006 as part of the Australian Government's family law reforms.⁴⁷⁶ In addition to the types of assistance that are provided for families and separating couples, these centres could serve as information hubs for newly partnered couples to find out about options for managing their paid work and care arrangements, and for prospective parents to receive information about sharing parental care and other unpaid responsibilities. Other community services could also be engaged in this task as part of a broader community education campaign.

Recommendation 24:

That the Australian Government fund the development of resources to assist newly partnered couples, and in particular prospective and new parents, to consider options and discuss arrangements for sharing care. These resources should be distributed through Family Relationship Centres and relevant community organisations.

Similarly, as elder care responsibilities increase at the same time as women and men are increasing the length of their working lives, there will be a pressing need to discuss arrangements for sharing other forms of care among men and women in families. As noted in the *Striking the Balance* discussion paper, currently women and particularly daughters provide the overwhelming amount of informal care. For caring beyond parenting, greater community support will be needed, including measures to encourage contact with elder care and disability support groups and networks, as discussed in Chapter 8.

5.9 Conclusion

Arrangements for managing paid work and family and carer responsibilities do not arise within a cultural vacuum. Social changes such as greater workforce participation of women and rising interest in men's involvement in caring for children do not necessarily bring with them the education and community support needed to create real choice for men and women with caring responsibilities. Education and awareness raising activities in schools through gender equality education would be a way of strengthening generational shifts in attitudes to men and women's roles in families. These activities could be linked with a national campaign that works in unison with legislative, workplace and policy supports for a shared work – valued care approach. Community-based programs for men and women at transitional times in the life cycle would further contribute to the cultural and institutional change that is needed to support a shared work – valued care approach. Targeted programs and services that help break down the barriers to men's participation in caring work could be expanded and incorporate gender equality principles, in addition to mainstreaming a father-friendly approach within existing services.

476 See www.ag.gov.au/family for further information about Family Relationship Centres.

Chapter 6: Government Support: Welfare and tax

6.1 Introduction

The Australian welfare system helps support individuals and families to balance their family and carer responsibilities with their paid work. A broad range of social support is provided via direct payments to individuals and families along with funding for services that provide economic and social support for those who are unemployed, on low incomes or who are otherwise disadvantaged. Both the Australian and State and Territory governments provide support for families through investment in education, health, child care and aged care services, among others.

The taxation system works in concert with the welfare system and provides both incentives and disincentives for families making choices about work and care arrangements, and transitioning from one stage of the work/care life cycle to the next.

The section below outlines the major planks of Australian Government support for families combining paid work and care and the way in which these act to assist or hinder choice in Australian families. The sections that follow draw on public submissions and consultations conducted by HREOC which help to frame the major elements the tax and welfare systems need to include in order to serve the needs of individuals and families who undertake paid work and care.

6.2 Developing principles for a carer-friendly welfare system

There are differing ways to characterise the system of payments and services that make up the Australian welfare system.⁴⁷⁷ Australia's welfare system, like those of the UK and the US, can be characterised as a liberal welfare system that consists primarily of selective means-tested entitlements that act as a safety net for those who are unable to participate in employment. By contrast, countries such as France and Germany have a system that is oriented to earnings from paid work with social insurance tied to individual contribution. In countries such as Norway and Sweden, generous universal entitlements are provided in line with universalist social values.

There are also a range of views on how to best provide for men and women with caring responsibilities within the Australian welfare system. For example, while some have argued for greater distribution of benefits to disadvantaged groups, others have pointed out that Australia's welfare spending is high compared with other OECD countries and well targeted to those in need.⁴⁷⁸ There has also been debate about recent shifts in social policy which have emphasised reform under the concept of "mutual responsibility". Mutual responsibility refers to reciprocal obligations between government and individual recipients of welfare. It can also be understood to include the wider obligations of business and community organisations to work in partnership as a way of lessening social and economic exclusion across the community, particularly

477 See, for example, Gosta Esping-Andersen *The Three Worlds of Welfare Capitalism* Princeton University Press Princeton 1990.

478 See Australian Council of Social Service (ACOSS) *Fair choices: 30 Recommendations for the federal budget 2006/7* ACOSS Sydney 2006 and Peter Whiteford "The Welfare Expenditure Debate: 'Economic Myths of the Left and Right' Revisited" Draft paper delivered at the Social Policy Research Conference Sydney 2005 for examples of these different perspectives.

to those who are unable to compete in the labour market.⁴⁷⁹ More recently, there has been government commentary and public debate around the best way to support families to undertake paid work and care given the interaction between tax rates and family payments in an increasingly deregulated labour market.⁴⁸⁰

Regardless of the different perspectives on the most appropriate system of welfare provision, it is clear from HREOC's consultations that the welfare system needs to adhere to certain principles in order to provide adequately for workers with family and carer responsibilities. While it is beyond the scope and aim of this report to provide detailed commentary on all aspects of welfare policy, HREOC has identified a range of principles that need to be incorporated into a comprehensive framework for reconciling paid work and family/carer responsibilities.

The first principle is that the welfare system needs to work with and not against other forms of support for workers with family and carer responsibilities. Second, the principle of shared work – valued care should underpin the welfare system's response to paid work and family/carer responsibilities, in order to maximise choice. Third, the system should support all types of families and carers combining paid work with caring and be flexible enough to meet changing needs for care support arising throughout the life course. Finally, the interaction between welfare payments and the tax system needs to be kept at the centre of policy development in these areas, particularly in terms of incentives and disincentives that may affect families' capacity to combine paid work and care.

6.3 Current government assistance for families

Welfare provisions in Australia are characterised by targeted and means-tested benefits which are distributed according to those most in need or those who are most disadvantaged. These targeted benefits combine with universal measures, such as the maternity payment, for example, which are available to all families.

These following list details the main payments provided to families and carers.⁴⁸¹

Family Tax Benefit Part A (FTB (A)) – Families with dependent children under 21 or full time dependent students aged 21-24 years receive this payment, which is income tested on family income. The benefit cuts out when income reaches \$94 718 for families with one child under 18 years, \$104 317 for two children and \$114 769 for three children. FTB (A) can be paid fortnightly, as a lump sum after the end of the financial year, or as reduced tax withholdings from wages paid to a customer or their partner. The maximum rate for a child under 13 is \$140.84 per fortnight, or \$4317.95 per year (the annual amount includes the FTB (A) supplement of \$646.05 per child). Different rates apply to older dependent children and to children in approved care organisations.

Family Tax Benefit Part B (FTB (B)) – Single income families, including sole parent families, receive this payment. In two parent families, FTB (B) is income tested on the second (or lower) earner's income only, and payments are reduced by 20 cents for each dollar of income earned over \$4 234. Where the youngest child is under five, the second income earner can earn \$21 572 per year before the payment cuts out. Where the youngest child is over five, the

479 See, for example, Reference Group on Welfare Reform *Participation Support for a More Equitable Society* Final report of the Reference Group on Welfare Reform July 2000.

480 See, for example, George Megalogenis "Costello loses plot on reform" *The Australian* 15 April 2006, p 22 and Julie Smith "The challenge to have more babies is taxing" *Sydney Morning Herald* 14 April 2006, p 32. This and other media commentary followed the release of a Treasury report comparing Australian taxation rates with international rates (Richard F E Warburton and Peter Hendy *International Comparison of Australia's Taxes* Commonwealth of Australia Canberra 2006) in the lead up to the 2006 federal Budget.

481 Information on these payments is sourced from Centrelink *A Guide to Commonwealth Payments 1 January – 19 March 2007* Commonwealth of Australia Canberra 2006.

second earner can earn \$16 790 before the payment cuts out. Payments can be paid fortnightly, as a lump sum after the end of the financial year, or as reduced tax withholdings from wages paid to a customer or their partner. The maximum rate of FTB (B) for a child under five years is \$120.96 per fortnight or \$3467.50 per year, and \$84.28 per fortnight or \$2511.20 per year for children between five and 15 years (or 16-18 years if a full time student). The annual amounts include the FTB (B) supplement of \$313.90 per family.

Child Care Benefit (CCB) – This is provided to families who use either approved formal child care or informal (registered) child care.⁴⁸² This subsidy either reduces fees at a child care service, or can be paid as a lump sum to parents at the end of the year. Only approved care is income tested on family income. This benefit is also payable to families for care provided by family members, including grandparents providing care.⁴⁸³

Child Care Tax Rebate – This is a 30 per cent child care tax rebate for out-of-pocket child care expenses (less CCB, which is reconciled at the end of the financial year) to a maximum of \$4 000 per year per child. The rebate could first be claimed in the 2005-2006 financial year, for child care costs incurred from 1 July 2004 to 30 June 2005.⁴⁸⁴

Parenting Payment – A means tested payment to carers of children under 16 years, primarily in single income families (including sole parent families) with low income. Sole parents receive up to \$512.10 per fortnight, while partnered parents receive up to \$379.80 per fortnight.

Carer Payment – A means tested payment paid under pension conditions⁴⁸⁵ to people who because of the demands of their caring role are unable to support themselves through substantial workforce participation. The basic single rate of payment is \$512.10 per fortnight while couples receive \$427.70 each, which is the same as other pensions. These amounts are adjusted twice a year in line with cost of living and wage increases.

Carer Allowance – A supplementary payment for people who provide daily care in a private home to a person with a disability or severe medical condition or who is an older person requiring care. Carer allowance is not taxable or income or assets tested. More than one allowance can be received if two or more people are cared for. The basic rate of payment is \$98.50 per fortnight and may be paid in addition to an income support payment.

Maternity Payment – A payment of \$4 100 to families (usually a lump sum) following the birth or adoption of a baby. In the 2005-2006 Budget, access to this payment was extended to parents who adopt children up to two years of age. From 1 July 2008 this payment will increase to \$5 000. Payment claimants aged 17 years or under are generally paid in 13 fortnightly instalments.

Maternity Immunisation Allowance – A lump sum payment of \$227.90 is paid for children aged 18-24 months who are fully immunised.⁴⁸⁶

482 "Approved care" includes most long day care, family day care, outside school hours care, vacation care and some in-home and occasional care services. "Registered care" is child care provided by grandparents, relatives, friends or nannies for work-related child care, and can include some care provided by pre-schools, kindergartens and outside school hours care: Family Assistance Office *Family Assistance The What, Why and How* Commonwealth of Australia Canberra July 2006, p 18.

483 Up to \$2.96 per hour (up to \$148 per week) is provided for approved care of non-school age children in families with incomes below a threshold of \$98 348 for one child in care, \$106 629 for two children in care and \$121 130 for three children, plus \$20 221 for each child after the third. For registered care, up to \$0.497 is payable per hour. Families on low incomes can receive up to \$148 for 50 hours of care a week. The rate for school age children is 85 per cent of the non-school age rate.

484 Family Assistance Office *Family Assistance The What, Why and How* Commonwealth of Australia Canberra July 2006, p 21.

485 That is, Carer Payment is subject to an income and assets test and paid at pension rates.

486 This allowance is also payable if an approved immunisation exemption has been obtained for the child.

Many families will receive more than one of these payments at the same time. FTB(A) is the most common payment aimed at assisting parents with the cost of raising children, with the payment amount based on annual family income and the ages and number of children in a family. A large number of single income families and sole parents also receive FTB (B) which gives extra assistance to single parent families and to couple families with one main income. In 2004 almost 1.9 million Australian families received FTB (A) and 1.2 million received FTB (B), paid at an average amount of \$216 per fortnight.⁴⁸⁷

Many parents and carers also receive income support through other government payments such as Newstart Allowance, Disability Support Pension and Veteran's Affairs payments. In particular, many fathers (both single and partnered) receive Newstart Allowance because Parenting Payment is restricted to one partner in low income couple families and in cases where separated parents both provide care, even if that care is equally shared. Grandparents who have primary responsibility for raising their grandchildren and receive an income support payment such as the Age Pension can access a special rate of CCB to cover the full cost of approved care for up to 50 hours a week.⁴⁸⁸ Grandparents who have full time care of their children can also apply for Parenting Payment and FTB (A and/or B) which can be an important income source for grandparents, particularly those on income support payments.

There are also a range of associated benefits provided by the Australian Government, such as rent assistance, the Pharmaceutical Benefits Scheme, the Health Care Card and mobility allowance. There are also some State/Territory government payments such as foster care payments.

In addition, a broader range of social policies affect how Australian families manage their competing paid work and family obligations. These include health, child care, elder care, retirement, education and disability policies, all of which help shape the landscape in which preferences, decisions and family formations and dissolutions take place.⁴⁸⁹ A number of government agencies have responsibility for supporting and promoting paid work and family balance and family-friendly arrangements within workplaces, including the Department of Employment and Workplace Relations (DEWR), the Department of Families, Community Services and Indigenous Affairs (FaCSIA) and the Equal Opportunity for Women in the Workplace Agency (EOWA).⁴⁹⁰

Government policy in relation to families reconciling paid work and care has in recent years tended to emphasise notions of choice, opportunity, participation and mutual responsibility. These notions both reflect and respond to changes in the labour market, social expectations and national interest objectives around issues such as improved productivity, increasing workforce participation, the ageing of the population, current skills shortages and a birth rate that is still below replacement level, despite a recent increase.⁴⁹¹

487 In June 2004, 1 809 122 customers received FTB (A) (alone or in combination with FTB (B)) and a further 30 882 customers received only FTB (B): Australian Government Department of Families, Community Services and Indigenous Affairs *Statistical Paper No 3 Income Support Customers: A statistical overview 2004* Australian Government Canberra 2006, p 61 and p 63.

488 Centrelink *A Guide to Commonwealth Payments 1 January – 19 March 2007* Commonwealth of Australia Canberra 2006. See Chapter 7, particularly section 7.4 and Chapter 8 (section 8.4) for further discussion of grandparent carers.

489 See Organisation for Economic Co-operation and Development *Babies and Bosses: Reconciling work and family life – Australia, Denmark and The Netherlands* Volume 1 OECD Paris 2002, pp 9-10.

490 The *Striking the Balance* discussion paper (p 105) provides some further detail on the activities and programs administered by these agencies.

491 See Steve O'Neill *Work and Family Policies as Industrial and Employment Entitlements* Research Paper No 2 2004-2005 Department of Parliamentary Services Commonwealth of Australia Canberra 2004, pp 6-7 and ABS *Births 2005* Cat No 3301.0 Oct 2006, p 44: In 2005 Australia's total fertility rate (TFR) was 1.81 babies per woman, an increase from 1.73 in 2001. A replacement level TFR is 2.1.

One example of the focus on participation and mutual responsibility is the Welfare to Work package announced in the 2005-2006 federal Budget. The Welfare to Work measures created major changes to income support arrangements for people of working age, in particular sole parents, mature aged workers and people with disability who receive the Disability Support Pension.⁴⁹² As of 1 July 2006, Parenting Payment is only available to new claimants where their youngest child is less than six years of age if partnered or under eight if single. Where the youngest child is older than this, parents must claim Newstart Allowance, which requires an activity test to be satisfied – for most parents this is a requirement to seek part time work of at least 15 hours per week. People with disability applying for income support after 1 July 2006 will now also be required to seek part time work if they have the capacity to do so. Mature aged job seekers (those older than 50) on Newstart Allowance are now also required to undertake activity tests.⁴⁹³

HREOC's consultations took place around the time these changes were being publicly debated and consequently a great deal of concern was raised in terms of the impact the changes would have on workers with family and carer responsibilities, particularly the financial and practical difficulties they might create for single parents managing their caring responsibilities and possible adverse effects on people with disability.⁴⁹⁴ Where these and other concerns raised relate to the principles that HREOC has identified as crucial to a welfare system that supports workers with caring responsibilities, they are referred to below.⁴⁹⁵

6.4 Support for all types of families and care needs

Many submissions to HREOC have emphasised the need for government to provide support for the diverse array of family types and the different paid and unpaid work arrangements within them.⁴⁹⁶ Australian family types include, but are not limited to, couple families, couple families with children and one parent families. Families also take many forms such as same-sex couple families, step families, blended families, grandparent carer families and non-resident parents.⁴⁹⁷ Submissions also highlighted the cultural aspects of family forms.

Indigenous communities may have kinship and other familial relationships that require significant commitments of time and care but have no validity in terms of legislation that relates to family responsibility. When looking at the

492 These changes came into place from 1 July 2006 following the passage of the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and other Measures) Bill 2005* and the *Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005*.

493 People aged 18-49 may have to participate in mutual obligation activities (program or training course) if in receipt of Newstart for 6 months. People aged 50 and over who receive Newstart have more flexible Activity Test requirements. For people aged 55 years or over, obligations can be met by working part time or volunteering for at least 30 hours per fortnight (or a combination of both). See Centrelink Fact Sheet at: <http://www.centrelink.gov.au/internet/internet.nsf/publications/lw031.htm>.

494 Australian Education Union, Submission 119, p 21; People with Disability Australia, Submission 104, pp 8-9; NSW Commission for Children and Young People, Submission 175, p 6; National Council of Single Mothers and their Children Inc, Submission 86; and Anne Stewart, Submission 42.

495 HREOC has previously provided more detailed commentary on the Welfare to Work legislation in its submission to the Senate Community Affairs Legislation Committee Inquiry into *Employment and Workplace Relations Legislation Amendment (Welfare to Work and other Measures) Bill 2005* and *Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005* (http://www.aph.gov.au/Senate/committee/clac_ctte/welfare_to_work/submissions/sub17.pdf).

496 NSW Commission for Children and Young People, Submission 175, pp 6-7; National Council of Single Mothers and their Children Inc, Submission 86; and Shop Distributive and Allied Employees' Association, Submission 71, p 6.

497 See *Striking the Balance* discussion paper p 4 and p 5. See also Human Rights and Equal Opportunity Commission *Same-Sex: Same Entitlements A national inquiry into discrimination against people in same-sex relationships: Financial and work-related entitlements and benefits* HREOC April 2006.

needs of Australians from culturally and linguistically diverse backgrounds it is important to consider the cultural norms that relate to family.⁴⁹⁸

For many families, the unpaid care that they provide occurs outside their household, for example, people who are providing care for their parents or other relatives.

Choice for different family types

Submissions advocated income support as a way of creating equity between lower and higher income families so that those with fewer resources to care can enjoy choice in combining paid work and care.⁴⁹⁹ There was widespread agreement within consultations and submissions that families need more than just flexible, family-friendly workplaces to manage their competing responsibilities, and that governments should play a role. For example, the NSW Commission for Children and Young People wrote:

In addition to providing flexible workplaces to assist families, families also need economic and social support to better balance their paid work and family responsibilities.⁵⁰⁰

The Queensland Council of Social Service submission highlighted the lack of attention paid by policy makers to families who have no choice to balance paid work with care because they cannot gain employment.⁵⁰¹

While there were few clear proposals offered as ways of supporting families and their choices, there was general support within submissions that all family types and choices should be respected and treated equally. For example, the Shop Distributive and Allied Employees' Association wrote that:

Whatever its decision, a family should not be adversely affected by the application of government policies. All choices should be respected, including those who choose to play a role in the unpaid workforce. A feature of such respect is to properly recognize and value the unpaid work done by those who care for and nurture others, especially where they do it on a full-time basis. A parent caring for children should be seen as making a valuable contribution to society.⁵⁰²

The NSW Commission for Children and Young People argued that "Australia's tax and welfare benefit system should aim to treat all family types and choices equally".⁵⁰³

Family Tax Benefit Part B

Some submissions expressed concern that certain family types were favoured over others, in particular the concern that in couple families a model of one full time earner and one full time carer (or a carer with minimal earnings) is privileged under the family payments system. For example, the Work + Family Roundtable submission argued that:

The current family benefits system also serves to entrench the lack of 'choice' women and men have in dividing their paid and unpaid work in the household equitably. Under the current regime, families that subscribe to the male breadwinner household model are rewarded with higher family

498 Premiers Council for Women (SA), Submission 96, p 2.

499 Sara Charlesworth, Submission 98, p 7; NSW Commission for Children and Young People, Submission 175, p 6; Queensland Council of Social Service, Submission 62; and Country Women's Association of New South Wales, Submission 73, p 3.

500 NSW Commission for Children and Young People, Submission 175, p 6.

501 Queensland Council of Social Service, Submission 62.

502 Shop Distributive and Allied Employees' Association, Submission 17, p 6.

503 Commission for Children and Young People, Submission 175, p 7.

benefits than households in which the division of paid and unpaid labour is more equitably split.⁵⁰⁴

Other submissions also argued that two parent families with one earner are favoured over two parent families with two earners, in particular through the provision of Family Tax Benefit Part B (FTB (B)). A submission from the Queensland Government noted:

There appears to be different drivers for providing policies relevant to workforce participation for two-parent and one-parent families and for two-income and single income families ... The federal Government's income support payments target single income families by penalising families with a second income earner as in Family Tax Benefit Part B, which effectively means that women cannot return to paid work and receive this payment.⁵⁰⁵

Some argued that this was a disincentive to workforce participation and also a disincentive to sharing care.⁵⁰⁶ As noted in the *Striking the Balance* discussion paper, there are currently no policy initiatives that encourage shared care of children in intact families, nor for sharing other kinds of care responsibilities.⁵⁰⁷ Of particular concern among some submissions was the way that the current policy model encourages people to adopt a male breadwinner/female home carer model regardless of individual needs or preferences. The Women's Electoral Lobby argued that:

Overall, analysis shows that following the last budget the families most favoured by the family assistance and tax package are those with a "primary earner" (implicitly male) contributing 80 per cent of household income and a "secondary earner" (implicitly female) earning 20 per cent. Families with a more equal division of parenting and paid work are effectively penalised, and mothers are strongly discouraged from engaging in more than very limited part-time work, which is deeply frustrating to many ... The net financial and ideological message is that the government prefers, and supports more generously the traditional breadwinner model of family life.⁵⁰⁸

The "family snapshots" provided by the Victorian Women Lawyers submission revealed that in families where both parents choose to undertake paid work there is a perception that the "current tax system involves far too much money being provided to reasonably well off people where one chooses to stay at home to look after children, whereas for people choosing (and therefore earning income) to work, there are substantial penalties".⁵⁰⁹

A few submissions supported FTB (B), arguing that it facilitates the choice for one parent to undertake unpaid work and relieves financial disadvantage at a time when it is needed.⁵¹⁰ The Women's Action Alliance argued that: "Most mothers are out of paid work for some period of time – be it a brief or an extended period, so almost all families benefit from this payment at some time in their life cycle".⁵¹¹ However women who are out of paid work for shorter periods may be unable to access to the benefit if they have

504 Work + Family Policy Roundtable, Submission 102

505 Queensland Government, Submission 166, p 67.

506 Women's Electoral Lobby Australia, Submission 115, p 12-13; NSW Commission for Children and Young People, Submission 175, p 7.

507 See *Striking the Balance* discussion paper, p 108.

508 Women's Electoral Lobby Australia, Submission 115, pp 12-13.

509 Victorian Women Lawyers, Submission 95, p 15.

510 Women's Action Alliance, Submission 85, p 20-21 and Shop Distributive and Allied Employees' Association, Submission 71, pp 40-41.

511 Women's Action Alliance, Submission 85, p 20.

worked at some point in the financial year depending on the time they gave birth in that financial year.⁵¹²

Options for tax reform

Other submissions argued that there is lack of assistance for people on middle incomes trying to balance their paid work and family/carer responsibilities. A submission from Natalie Morton highlighted the difficulties for people on average incomes who miss out on government support for combining paid work and care.

... I am not insisting we should be eligible for such [income support] assistance as I hope it is provided to families who are in a worse off financial situation than we are. What I do find insulting is the insinuation that people at our income level are rich enough to pay for every service they may require, like private health insurance and full fee day care, and by default make themselves ineligible for assistance by working as hard, and as many hours, as possible.⁵¹³

A recent analysis of the tax system as it affects working couple families shows that in effect most families are now taxed on the basis of joint income.⁵¹⁴ This is a result of a series of federal reforms over recent years which have shifted the tax burden to two earner families to such an extent that many now pay close to the same amount of tax as a couple family in which only one parent is in the paid workforce. Couple families who are on similar high incomes are not eligible for any benefit if both parents contribute an equal share to family income. This arguably discourages shared care between both parents.⁵¹⁵

Analyses of the tax and welfare systems frequently consider the concept known as effective marginal taxation rates (EMTRs). EMTR is a measure of how much of an additional dollar of income is kept after income tax is deducted and means-tested government support is withdrawn. As people move into work and off welfare payments, the degree of income support they receive drops, which can in some cases result in very little return for each dollar increase in income. It is important to note that an EMTR does not tell us anything about the total amount of tax paid by an individual or family. An EMTR simply demonstrates how much of a \$1 increase in private income an individual will lose to increased taxes or reduced government benefits. It is quite different to an average tax rate, which typically shows total income tax paid as a percentage of total income. Thus, while an EMTR of 50 percent means that an individual will keep half of their next dollar of private income, an average tax rate of 50 percent means that half of the total income of an individual will be taken in income tax.

With the top marginal income tax rate set at 45 cents in the dollar, it suggests that all Australians should keep at least half of the next dollar they earn. However, recent research in this area estimates that 7.1 per cent of working age Australians (910 000 people) face an EMTR of 50 per cent, that is they will keep less than half of their next dollar of private income. Of these, about 460 000 will keep less than 40 cents from their

512 FTB (B) allows a sole parent or the second earner in a couple family to earn \$4 234 each financial year before the payment is reduced by 20c in the dollar. If the youngest child is under 5 years of age and the parent earns less than \$21 572 a year or the youngest child is between 5 and 18 years of age and the parent earns less than \$16 790 per year they may still be eligible for some FTB (B).

513 Natalie Morton, Submission 65.

514 Patricia Apps *Family Taxation: An unfair and inefficient system* Australian National University Centre for Economic Policy Research Discussion paper No 524 ANU Canberra May 2006. The study highlights that families face a marginal tax rate schedule in which working families in the middle of the distribution face the highest EMTRs, with the result that second earners in low and average wage families are taxed effectively at the highest average rates in the economy.

515 See for example Community consultation, Melbourne, 17 August 2005 and Work + Family Policy Roundtable, Submission 102. See also discussion in Peter McDonald, Submission to the Commonwealth Parliamentary Inquiry into Balancing Work and Family <http://wopared.aph.gov.au/house/committee/fhs/workandfamily/subs/sub134.pdf>.

next dollar of income.⁵¹⁶ These are usually families who are affected by the income tests for social security payments or FTB, which overlap either with other income tests or with income tax liabilities and the withdrawal of tax concessions. This most affects middle income families with average gross incomes ranging from about \$40 000 to \$75 000.⁵¹⁷

Any system that has means-tested benefits inevitably produces EMTRs. In the Australian context, where most welfare support is means-tested, the challenge is to make EMTRs as low as possible so that people are not too harshly affected or discouraged from engaging in paid work.

Researchers have argued that the imposition of such unequal tax burdens on single and dual income families could only be considered fair if the stay at home parent was assumed to spend their time entirely on leisure (evidently not the case and an assumption which must be avoided in a model which values care) and if the primary earner is assumed to share his (or her) income equally with his spouse.⁵¹⁸

It has been argued that this situation is inequitable towards second earners – overwhelmingly women – and damaging to the economy in respect of encouraging female labour force participation and that a fairer system lies in a return to a progressive individual tax system. Such a system would apply a lower rate of tax to the lower earning partner, improve vertical equity, allow the expansion of the tax base and thus provide greater resources to provide a more universal system of child benefits and improve women's labour market participation.⁵¹⁹

Alternative proposals for tax systems which may better support couples to share paid work and care include “in-work payments” and earned income tax credits (EITCs) such as those found in New Zealand and the UK. The aim of these schemes is to encourage families receiving welfare payments into paid work. In New Zealand, in-work payments of \$60 per family per week are made to low income families who are working and not receiving another benefit.

EITCs are a form of work subsidy, available to low-wage workers and often have a dual goal of improving child welfare and thus are typically more generous for working parents than working singles. Tax credits can be delivered through workplaces via reductions in taxable income for pay as you earn (PAYE) tax payers or made as a direct payment like the Australian family tax payment.⁵²⁰ A variety of proposals for EITCs have been put forward in Australia over recent years.⁵²¹ EITCs have been introduced, or expanded, in a number of developed nations in recent years, with a focus on boosting labour supply and “making work pay”.

516 According to the AMP/NATSEM Income and Wealth Report, Ann Harding, Quoc Ngu Vu, Alicia Payne and Richard Percival *Trends in effective marginal tax rates 1996-97 to 2006-07* Issue 14 AMP Sydney September 2006, two-thirds of these 910 000 people are parents living with their partner and dependent children and 70 per cent are middle income families or singles (p 1). The trend that saw more men than women facing high EMTRs in 1996 has reversed so that currently 7.3 per cent of working age women face EMTRs of 50 per cent or more as opposed to 6.9 per cent of working age men (p 15).

517 *ibid*, p 7.

518 Literature on intra-household distribution of family resources demonstrates that this is not the case: see, for example, Patricia Apps and Ray Rees “Household Production, Full Consumption and the Costs of Children” (2002) 8 *Labour Economics* pp 621-648.

519 Patricia Apps *Family Taxation: An unfair and inefficient system* Australian National University Centre for Economic Policy Research Discussion paper No 524 ANU May 2006, p 27.

520 Andrew Leigh *Optimal Design of Earned Income Tax Credits: Evidence from a British Natural Experiment* Australian National University Centre for Economic Policy Research Discussion Paper No 488 March 2005.

521 See for example Peter Dawkins, John Freebairn, Ross Garnaut, Michael Keating, and Chris Richardson *A plan to cut unemployment in Australia: An elaboration on the ‘Five economists’ letter to the prime minister 28th October 1998*. Details of the text can be found on the website of the Australian National University Centre for Economic Policy Research at www.econrsss.anu.edu.au/pdf/dawkins1.pdf.

A recent study examining EITCs found positive employment effects for both workforce participation and increased hours of work for sole parents.⁵²² Arguments have also been put forward that an EITC scheme would simplify and unify the tax and welfare systems.

However despite the apparent advantages, a range of potential problems have been identified in relation to EITC schemes. As a scheme which relies on measuring family income jointly (like the current system of family tax benefit payments) it discourages second earners, principally mothers in two income families. EITCs are also likely to shift the tax burden further to low and middle income earners and may simply shift EMTRs higher up the income scale.⁵²³ Further, problems of overpayment are not eliminated. In the UK where the EITC scheme has been one of the “flagship” policies of the Blair government, there still remain significant problems with overpayment - amounting to £ 2.2 billion in 2004-2005.⁵²⁴ Any examination of the use of EITCs in Australia would have to give careful consideration to groups who may be disadvantaged under such a system.

Another argument put forward in submissions to HREOC was that in addition to protecting families from poverty there should be support for those who experience disadvantage through childrearing relative to those who do not.

Employed couples and single parents on high incomes may not experience the dire consequences of poverty, but they suffer financial disadvantage relative to those in the community who do not raise children.⁵²⁵

This approach aims to institute what is sometimes referred to as “horizontal equity” between people with children and people without children, recognising the unpaid work of caring and child rearing as socially and financially useful work which benefits society as a whole.

Submissions expressed considerable concern about some families being unfairly and unequally penalised, such as sole parent families, under the new Welfare to Work regime. For example, the Australian Education Union summarised their concerns in this way:

Unfortunately in Australia [having] dependent children is still certainly a barrier to workforce participation and so whilst this is the situation, forcing parents to find 15 hours of work or face the loss of crucial income support, ignores the reality of the labour market, the disincentives to part-time work and poverty traps built into the current welfare system ...These changes do nothing to accommodate a balance between paid work and care.⁵²⁶

Some submissions highlighted inconsistencies in the welfare system. For example, while sole parents were encouraged and are now required from a certain point to engage in paid work regardless of care preferences and needs, partnered mothers can choose and are encouraged to devote all or much of their time to full time caring.⁵²⁷

522 Andrew Leigh *Optimal Design of Earned Income Tax Credits: Evidence from a British Natural Experiment* Australian National University Centre for Economic Policy Research Discussion Paper No 488 March 2005.

523 See for example Australian Chamber of Commerce and Industry *ACCI Review No 107 Tax Credits and the Welfare System* ACCI January 2004 and Patricia Apps *Why an Earned Income Tax Credit Program is a Mistake for Australia* Australian National University Centre for Economic Policy Research Discussion Paper No 431 June 2001.

524 BBC News *Tax credits still being overpaid* 25 April 2006 www.bbc.co.uk.

525 Marty Grace, Mary Leahy and James Doughney, Submission 114, p 3.

526 Australian Education Union, Submission 119, pp 20-21.

527 Country Women's Association of NSW, Submission 73, p 3 and National Council of Single Mothers and their Children, Submission 86, Attachment 1, p 2 and p 4.

Submissions also highlighted the impact of Welfare to Work changes on people with disability, including those who have care responsibilities, arguing that they would compound existing barriers to achieving a balance between paid work and other responsibilities.⁵²⁸ Barriers for people with disability identified in the submissions included: costs of disability that need to be met in order to seek and maintain employment, an inflexible and unreliable service system and a drop in income coupled with less concession benefits as a result of the requirement to seek work, such as travel costs or the need for personal care.⁵²⁹ These barriers in moving between the welfare system and paid work for people with disability have also been examined in detail in HREOC's report of the National Inquiry into Employment and Disability, *WORKability II*.⁵³⁰

A number of submissions from post-separation, non-resident fathers highlighted particular struggles with poverty, as well as issues such as access to time with their children and problems dealing with the family law system and government bureaucracy.⁵³¹ These issues are discussed further in Chapter 5.⁵³² It should also be noted that any changes to family tax payments would have implications for child support arrangements as the new child support formula is based on the "costs of children" which is determined with reference to FTB entitlements.

Recommendation 25:

That Family Tax Benefit Part B be modified to support couple families to share paid work and care and Australia move towards a system of progressive individual income tax in which child benefits are provided on a universal basis.

Recommendation 26:

That the child care tax rebate be modified to make it also available to parents as a fortnightly payment in the same way as the Family Tax Benefit Part B. This would require the Australian Tax Office (ATO)/Family Assistance Office (FAO) to develop a reliable calculator to enable parents to estimate their annual child care costs and make a claim either through the FAO for fortnightly payments or through the ATO for the rebate at the end of the financial year and to reduce the risk of overpayments. Where an individual elects to receive the payment as a tax rebate, it should be able to be claimed as part of an individual's tax returns for the financial year for which they have submitted that tax return.

528 Disability Council of NSW, Submission 76, p 4; People with Disability Australia, Submission 104, p 9; and WomenSpeak Network, Submission 69. Submissions also expressed concern over the interaction of the Welfare to Work changes with the WorkChoices changes and the impact this would have on people with disability.

529 Disability Council of NSW, Submission 76, p 3 and People with Disability Australia, Submission 104, p 9. These issues are also discussed in section 6.5.

530 HREOC *WORKability II: Solutions – People with Disability in the Open Workplace* December 2005. For further information about the Inquiry refer to the HREOC website at www.humanrights.gov.au/disability_rights/employment_inquiry.

531 A number of submissions, many of them confidential, gave detailed information about these issues, for example, Confidential, Submission 130; Confidential, Submission 150; and Submission 152. These submissions also outlined concerns about the operation of family law, the child support scheme and the Child Support Agency which are beyond the scope of this project. HREOC notes that there are many changes currently underway in this area following the recommendations made by the report of the House of Representatives Standing Committee on Family and Community Affairs *Every Picture Tells a Story: Report on the Inquiry into Child Custody Arrangements in the Event of Family Separation* Commonwealth of Australia Canberra December 2003.

532 See Chapter 5 (section 5.8).

Recommendation 27:

That the Australian Government examine the option of moving towards a system of earned income tax credits for working families which would encompass current Family Tax Benefit payments and the child care tax rebate. Such an examination should consider the circumstances of families where parents are not in paid work which may be eligible for a set proportion of the full level of tax credit support and a premium should be considered for children with specific needs, in particular children with disability.

Support for all caring needs and preferences

Regardless of the choices that women and men make about combining paid and unpaid work, there is general agreement within submissions to HREOC that the unpaid work of caring is valuable on many levels and as such it should be supported.⁵³³

Much energy is wasted debating the merits and morality of the variously constrained choices that families make regarding how to meet their caring responsibilities, particularly what has been called the “mother wars” which pit “women-at-home” against “women-with-jobs”.⁵³⁴ Such discussions are not only divisive and blind to the economic and social realities of modern family life, they also ignore the dynamic nature of paid and unpaid work arrangements across the life cycle.⁵³⁵

Women and men express a range of preferences, which change over time and which are also sensitive to government policies and programs. As with workplace responses to paid work and family and carer responsibilities, welfare responses need to be flexible enough to operate efficiently and helpfully for men and women located at different points along the life course, across differing family, socio-economic and other circumstances, as well as across different preferences.

Some community groups urged the recognition of difficulties experienced by particular family types. Sole parents, the majority of whom are women, perceived the Welfare to Work changes as blind to their unpaid caring workloads, the other social and financial difficulties they experience, and their own preferences for caring for their own children.⁵³⁶ The National Council of Single Mothers and Their Children, for example, recommended a review of welfare policy to “address inconsistencies that ‘encourage’ single mothers, on the one hand, to enter paid work, and couple mothers, on the other, to stay at home”.⁵³⁷ People with Disability Australia note that many sole parents are also women with disability.⁵³⁸

Policy debates around care needs and welfare support routinely ignore caring responsibilities aside from parenting. Submissions from carer organisations and disability advocates highlighted the unmet needs for support for carers of people other than children, including people with disability providing care. Submissions from the Carers Australia and the Working Carers Support Gateway highlighted the lack of formal support for carers other than parents, particularly the need for support services

533 See, for example, Australian Women’s Coalition, Submission 129; Women’s Electoral Lobby Australia, Submission 115, p 2, Women’s Action Alliance, Submission 85, p 22; Deb Hart, Submission 55; and Julia, Submission 16, p 3. See also Chapter 5 (section 5.4).

534 Barbara Pocock “Australian Mothers in 2004: Awaiting a decent work/care regime” in Patricia Grimshaw, John Murphy and Belinda Probert (eds) *Double Shift: Working mothers and social change in Australia* Circa Beaconsfield 2005, pp 8-23 at p 19.

535 See also Chapter 4 (section 4.6) for a discussion of the shifting nature of women’s working arrangements.

536 Anne Stewart, Submission 42 and Community consultation, Perth, 13 September 2005.

537 National Council of Single Mothers and Their Children, Submission 86, Attachment 1, p 5.

538 People with Disability Australia, Submission 104, p 6

in addition to respite services, which are for a limited number of hours.⁵³⁹ Other needs include geographical access, supported employment, and recognition of time and energy spent dealing with services and planning for future needs.⁵⁴⁰ All of these things contribute to difficulties for carers combining paid work with care, along with inconsistencies in the provision of support according to family types.

6.5 Supporting parents and other carers to work and care

As noted above, there was perceived lack of support for parents combining paid work with care, other than the universally available maternity payment and measures such as the child care benefit (which largely benefits low income families) and the child care rebate (which largely benefits higher income families).⁵⁴¹ Supporting an approach which recognises carers who undertake paid work is crucial if we are to institute a new framework based on the principle of shared work – valued care. Welfare support for workers as carers should not only include support for parents combining paid work and care. It should include support for people who provide care to people with disability and older people requiring care. It should provide extra support for people who are disadvantaged or in vulnerable situations, and also provide incentives to redistribute caring responsibilities more evenly between women and men.

The welfare system should also support and enable those who have been out of the labour force due to caring responsibilities, such as sole parents, to re-enter the labour market. While this is the objective of the Welfare to Work changes, submissions from sole parents highlight the difficulty of combining care and paid work, particularly in light of disincentives created through the interaction of welfare and the tax system, where the progressive withdrawal of benefits and loss of associated assistance works against pursuing paid work.⁵⁴²

There are clear benefits of paid work for sole parents, such as maintaining workforce attachment, role modelling for children and alleviating financial hardship. This is recognised by sole parents as highlighted in a submission from the National Council of Single Mothers and Their Children.

... access to well-paid employment with family-friendly workplace conditions and appropriate affordable childcare [i]s the most sustainable path out of poverty for single mothers.⁵⁴³

However, as a sole parent wrote in her submission:

I am stuck in a classic Catch 22 situation which is in the main not of my own making ... If I earn too much income and lose the partial parenting payment I currently receive, I will lose many of its associated benefits ... And to earn enough income to cover ... additional expenses I would need to work on a full-time basis and leave my young daughter ...⁵⁴⁴

Recommendation 28:

That in recognition of increased difficulties facing many sole parents and the large number of children in sole parent households living in poverty, the Australian Government should further review incentives and special assistance to enable sole parents to undertake paid

539 Carers Australia, Submission 60 and Working Carers Support Gateway, Submission 77. This issue is discussed further in Chapter 8.

540 Carers Australia, Submission 60 and People with Disability Australia, Submission 104, p 6.

541 Child care support is discussed further in section 6.10 and in Chapter 7.

542 This is also discussed in section 6.4.

543 National Council of Single Mothers and Their Children, Submission 86, Attachment 2, p 5.

544 Anne Stewart, Submission 42.

work. Options for reform include the introduction of an in-work emergency fund to meet the cost of care related emergencies within the first 3 months of employment, a tax credit for sole parents entering the workforce for at least six months, and introducing a work related activity bonus on top of existing income support payments for sole parents with children aged under six years who engage in a work related activity.

Submissions have also highlighted significant disincentives in relation to workers with disability with caring responsibilities. For people with disability who have caring responsibilities (the majority of whom are women) there are difficulties in accessing adequate support services and difficulties getting and remaining in paid work. A submission from the Disability Council of NSW noted:

The disability service system is frequently found to be inflexible and inadequate in meeting women's disability-related needs so that they can astutely perform and balance the roles of mother, 'carer' and/or employee. Furthermore the lack of control women can exercise over support, personal assistance or transport arrangements, because of the inflexibility of the service system, restricts the commitments they can make to paid work.⁵⁴⁵

According to People with Disability Australia, "many carers, including carers with disability are unlikely to view paid work as a viable option".⁵⁴⁶

For carers of older people and people with disability who do undertake paid work, it is difficult to access quality services while working.⁵⁴⁷ The Working Carers Support Gateway also noted concern among Indigenous carers about the lack of appropriate services.

Aboriginal working carers and service providers are also concerned about the lack of Aboriginal-specific services, and that mainstream services need to be more accessible, friendly and flexible so that they can cater for Aboriginal carers ...⁵⁴⁸

Ideally the welfare system should encourage all types of carers to participate in paid work where possible. Appropriate support is essential to enable carers to engage in paid work without neglecting their caring responsibilities.

There are also no current welfare policies designed to encourage a greater sharing of caring responsibilities between men and women, aside from other reforms currently underway to encourage shared parenting post-separation.⁵⁴⁹

A better redistribution of the unpaid work that meeting family/carer responsibilities requires is needed, as argued in the *Striking the Balance* discussion paper and as noted by submissions such as that of the Women's Electoral Lobby Australia, who recommended policy that supports men/fathers being able to shift "substantial time from paid work to caregiving".⁵⁵⁰

Australian and State/Territory government policy initiatives that create incentives for this would make a useful contribution to creating a shared work – valued care framework.⁵⁵¹

545 Disability Council of NSW, Submission 76, p 3.

546 People with Disability Australia, Submission 104, p 6.

547 Working Carers Support Gateway, Submission 77.

548 *ibid.*

549 See the Australian Government's *Family Relationships Online* website www.familyrelationships.gov.au

550 Women's Electoral Lobby Australia, Submission 115, p 13. See also discussion throughout the *Striking the Balance* discussion paper.

551 See also discussion throughout Chapter 5.

Recommendation 29:

That State and Territory governments (who have not already done so) examine the introduction of a Carer Card, similar to existing Seniors Cards, to provide for additional benefits for carers with the aim of increasing participation of carers in the community, providing some financial benefits for carers and improving the recognition of carers across the community, government and health and disability sectors.

6.6 The need for a consistent and integrated system

The final principle that the welfare system needs to be informed by is consistency and integration across the range of policies and payments. Families and individuals require adequate support according to their needs and so that they do not fall between the cracks of the varieties of income support, family payments and service provision.

To begin with the system needs to be either much simpler or much easier for people to understand and negotiate. HREOC has found evidence that shows families find the system of family payment is complex and confusing.⁵⁵² The complexity of the system is a barrier in itself for many parents. A submission from the NSW Commission for Children and Young People noted:

In addition, the complex system of family benefits and tax rates makes family, workforce participation and financial planning difficult for many families. The system needs to be simplified so that families are able to make better informed decisions about their participation in paid work.⁵⁵³

Moving from welfare support to paid work or trying to combine the two in order to meet caring responsibilities is difficult for many people. The Women's Electoral Lobby Australia submission argued that: "The structure of family payments makes it difficult to move from unpaid to paid work, or to increase hours of paid work at certain income levels."⁵⁵⁴

For those who do navigate the system successfully, there is evidence of much detailed planning and decision-making, including the decision to have a child or additional children.⁵⁵⁵ HREOC's consultations with parents showed that they make very careful decisions about whether the primary carer of the children works or not based on their understanding of the complex ways in which paid work, taxation and family and child care benefits interact.⁵⁵⁶

There have also been reports of significant overpayments with resulting debts that families then struggle to repay.⁵⁵⁷

552 One submission illustrates the complexity of the system through a series of detailed calculations: Natalie Morton, Submission 65. See also NSW Commission for Children and Young People, Submission 175, p 6; Women's Electoral Lobby Australia, Submission 115, pp 12-13; and HREOC Focus Group 3, February 2005. See also *Striking the Balance* discussion paper, pp 106-109. This point is also acknowledged by the House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006, p 27.

553 NSW Commission for Children and Young People, Submission 175, p 6.

554 Women's Electoral Lobby Australia, Submission 115, pp 12-13.

555 See, for example, Natalie Morton, Submission 65.

556 HREOC Focus group 10, August 2005.

557 See Department of Families, Community Services and Indigenous Affairs *Annual Report 2005-2006* Commonwealth Government Canberra 2006, p 172 and "Caught in a welfare debt trap" (Editorial) *The Daily Telegraph*, 2 November 2006, p 17.

There is evidence that some groups of people fall through the cracks of the different varieties of support provided through the welfare system. Examples of people who miss out on appropriate support provided in submissions to HREOC include parents of teenagers with disability, who express concern over cuts to post-school options programs and supported employment, and mothers with disability who may be caring for children with disability but who do not meet the criteria for the Carer Payment.⁵⁵⁸

While this report focuses on balancing paid work and care, submissions also identified the welfare needs of specific groups of carers who may not be in paid work. In particular, young carers and grandparents carers have been identified as falling through gaps in the welfare system.⁵⁵⁹

People who shift from one type of paid work and care arrangement to another can also lose out, as noted earlier. Ideally the welfare system should support people to work and care across the life cycle, which means providing support for times of transition, whether this be moving in or out of paid work. Submissions that address the issue of Family Tax Benefit debts (where parents find themselves paying back large overpayment debts of due to underestimating their incomes) testify to the difficulties and lack of support for transitional paid work and care arrangements in the current system.⁵⁶⁰

6.7 The interaction of taxation and welfare systems

There has been much debate over the years about the interaction of taxation and welfare payments and their effects on families. Both systems are interdependent and changes in one can create changes in the other to varying degrees depending on family types and individual income levels. There has also been wider theoretical debate about how to best conceptualise and deliver the provision of support for families combining paid work and care. For example, some argue that lowering tax rates would provide better outcomes for families providing care, as opposed to income support through the family payments.⁵⁶¹ Which ever way the interaction between tax and welfare is defined and organised, interaction between the two should aim to deliver genuine choices to parents sharing their time between family/carer responsibilities and paid work. They should also work towards supporting all types of caring and all types of families, encourage and enable workforce participation among carers and also support the workplace to support families. These general principles are addressed below, drawing on HREOC's consultations with the public and submissions received.

6.8 Fairness in the taxation system for all family types and all caring responsibilities

As with the welfare system, in order to create genuine choice for those combining paid work and care the tax system should not discriminate against different family types.

As noted above, HREOC has found a high level of community concern about the impact of welfare arrangements on families. Regarding taxation, there was concern about the interaction of tax rates with welfare benefits and the costs for certain family types.

558 Working Carers Support Gateway, Submission 77 and People with Disability Australia, Submission 104, p 9.

559 Rebecca Fowles, Submission 37 and Queensland Government, Submission 166, p 23. See also Chapter 8 (section 8.4).

560 See, for example, Rebecca Fowles, Submission 37.

561 See, for example, Peter Saunders "The Transition to Self-Reliance in Welfare in the 21st Century" Paper presented at Australian Social Policy Conference *Looking back, Looking forward* University of New South Wales Sydney 20 July 2005.

One concern was that sole parent families would lose out in the new Welfare to Work arrangements through a combination of taxation and withdrawal of benefits.⁵⁶²

Facilitating transitions from one paid work and family arrangement to another without penalty is an important goal for achieving balance for individual families and equity across family types and their varying paid work and care arrangements. There were concerns expressed to HREOC that Australia's taxation arrangements create difficulties for and thereby discourage people returning to work after a break for childrearing, due to high EMTRs.⁵⁶³

Some submissions also raised the issue of vertical equity, that is, the need to assist low and middle income families who have been unfairly affected by "bracket creep".

The absence of tax indexation has led, over the years, to low income earners moving into brackets where they are paying a greater share of their income in tax than previously. NATSEM has shown that the impact of bracket creep has been to push people into higher tax brackets, thus rapidly consuming the benefits of the tax cuts introduced as compensation for the introduction of the Goods and Services Tax. Today the average rate of tax paid by individuals is 22.5% as compared to 21.5% when the GST was introduced ... Vertical equity in the taxation system must be increased through a restructuring of the income thresholds which gives genuine tax relief to low and middle income earners.⁵⁶⁴

6.9 Lower effective marginal taxation rates

One of the major impediments to reconciling paid work and care work is caused by the existence of high EMTRs, which are a product of the complex interaction between the welfare system and the tax system.⁵⁶⁵

While EMTRs are an inevitable result of a welfare system which includes means-tested payments, the challenge for government is to ensure both an adequate standard of living for those who are not in paid work and that there are not undue incentives for people to stay out of or leave the labour force by keeping EMTRs as low as possible. As a New Zealand initiative that aims to assist low and middle income families moving from welfare benefits to paid work phrases it, the challenge is to "make work pay for parents who move off benefits into work".⁵⁶⁶

Supporting carers to engage in paid work, including combining varying degrees of paid work with care, should ideally occur through incentives as opposed to penalties that leave families unable to achieve an adequate standard of living. However high EMTRs work against this and were reported in submissions and HREOC consultations as being a major financial barrier to balancing paid work and caring responsibilities.⁵⁶⁷

562 National Council of Single Mothers and their Children Inc, Submission 86, particularly Attachment 3; Queensland Government, Submission 166, p 68; and Anne Stewart, Submission 42. However, the Department of Employment and Workplace Relations advises that principle carers with part time work requirements are not be expected to take up paid work if that work is to occur outside school hours and no suitable child care is available, or the cost of care would result in a very low or negative financial gain from working.

563 Queensland Government, Submission 166, p 68. See also discussion in section 6.4.

564 Shop Distributive and Allied Employees' Association, Submission 71, p 6 and pp 31-32.

565 See discussion of EMTRs in section 6.4.

566 The New Zealand "Working for Families" initiative is explained in a Fact Sheet produced by their Ministry of Social Development at www.msd.govt.nz/media-information/working-for-families/index.

567 See, for example, Natalie Morton, Submission 65.

A submission highlighted that for employees on low incomes, high EMTRs discourage and in some cases prevent people from entering or re-entering the workforce, and it is families with caring commitments who face some of the harshest penalties.⁵⁶⁸

For sole parents such as those who wrote to HREOC, the costs of working greatly outweighed the benefits once high EMTRs and loss of non-cash welfare benefits were factored in. As one sole parent remarked:

The financial benefits of working were minimal, as when I work my Housing Trust Rent doubles, my after-school care costs quadruple and I lose all the health, and benefits of having a Pension card plus I get taxed heavily on gross income.⁵⁶⁹

People receiving disability support pensions experience similar barriers with the transition to work, in addition to losing associated benefits and eligibility for disability-related support services.

For women with disability the transition to work is fraught with difficulty ... As the income support system is currently structured, many women with disability find that they cannot afford the additional costs they would incur to undertake employment. Some women with disability find that they cannot meet their disability-related costs when they cease to be eligible for the Disability Support Pension (DSP). This is because eligibility for some services is restricted to people who receive the pension or because of the need for associated entitlements, such as a Health Care Card, is tied to the pension.⁵⁷⁰

Similar financial disincentives were described by women in couple families, as described above.⁵⁷¹

There was concern expressed by many groups about effect of high EMTRs on incentive to work and, as a result, workforce participation. The Australian Industry Group wrote:

Currently, disincentives exist which affect the willingness of some persons to seek work because of the interaction of the social security and taxation systems ... lowering effective marginal tax rates may have beneficial effects in increasing participation rates.⁵⁷²

Referring to a comparative report from the OECD that has found high effective marginal tax rates in Australia, a submission from the Queensland Government argues that the current system does not reward parents for moving into paid work.

An unintended consequence of Government assistance programs for parents is the possible loss of tax rebates or benefits, which, in addition to the high cost of childcare, may discourage parents from entering the workforce. If parents remain outside of the workforce for extended periods of time, they stand to lose skills and opportunities for career advancement.⁵⁷³

Alternative options for supporting parents and other carers to move into paid work through supportive measures and approaches that do not overlook their caring responsibilities are worthy of further investigation.

568 Shop Distributive and Allied Employees' Association, Submission 71, pp 32-34.

569 Kathryn Moon, Submission 52. See also Anne Stewart, Submission 42.

570 Disability Council of NSW, Submission 76, p 3.

571 Natalie Morton, Submission 65.

572 Australian Industry Group, Submission 162, p 7.

573 Queensland Government, Submission 166, pp 68-69. See also OECD *Taxing Wages: 2004-2005* Organisation for Economic Co-operation and Development Paris, 2006.

6.10 Fringe Benefits Tax and tax deductibility of child care

The taxation system not only affects families managing paid work and care responsibilities directly, it also affects them indirectly through a range of other ways. One of the areas identified by submissions and within HREOC consultations with employers was Fringe Benefits Tax (FBT). FBT is a tax that is paid by employers who provide payments to their employees in a different form from salary or wages, such as, for example, the use of a company car by the employee for private purposes as well as business purposes.

Currently there are FBT exemptions for employers who establish child care centres on their premises or for those employers who wholly own child care facilities at another location. As a result this option for workplace support of employees requiring child care is limited to large firms because of high costs. Evidence presented recently to the House of Representatives Standing Committee on Family and Human Services *Inquiry into Balancing Work and Family* highlighted that while exact figures are not available, a review undertaken in 2000 found only 65 employer sponsored child care services, largely provided by public sector agencies, universities and major banks.⁵⁷⁴ The Inquiry found that the cost of an employer establishing a child care centre in a high cost area such as the Sydney or Canberra CBD would be around \$2 million or more.⁵⁷⁵

Both employer groups and other submissions to HREOC raised this issue. A submission from the Australian Industry Group urged consideration of extending FBT exemption to provide greater incentives to employers who wish to offer child care assistance for their employees.

Ai Group is supportive of Government programs to assist employees with the cost of childcare. However, more effective Fringe Benefits Tax (FBT) exemption arrangements need to be explored. For example, the merits of extending the FBT exemption to employers who choose to fund the cost of childcare for employees, regardless of the location or ownership of the registered childcare facility, should be analysed.⁵⁷⁶

HREOC's consultations with employers and employer representatives also revealed support for extending the FBT exemption.⁵⁷⁷

Employers spoke of their interest in providing child care for their employees but also outlined their difficulties.

Our staff were interested in having childcare facilities on site but we just didn't have any sites appropriate and the insurance risks are so great. So instead we looked at buying blocks but that is no use when you have people on shifts. We have one hospital in Canberra that did it and are running on a huge loss because the hours were restrictive.⁵⁷⁸

Extending the FBT exemption would be a useful way to support employers to support their employees with family responsibilities. This approach may particularly help employees who prefer to use child care facilities closer to home as opposed to their workplaces.

574 House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006, pp 234-237.

575 *ibid*, p 240.

576 Australian Industry Group, Submission 162, p 7.

577 Employer Consultation, Darwin, 22 September 2005. HREOC's findings are also supported by those of the House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006, in particular pp 233-253 and including their Recommendation 15.

578 Employer Consultation, Hobart, 10 August 2005.

Employer organisations including the Australian Industry Group indicated to HREOC that current FBT arrangements were not particularly effective because of the limited capacity of businesses to establish child care services on site and the preference of many parents to place their children in care close to home.⁵⁷⁹

Yes, business could do with FBT tax breaks.⁵⁸⁰

To improve conditions for employers to help their staff in the area of FBT would be of great benefit.⁵⁸¹

Debate continues in the community about the issue of FBT exemptions, principally because the difference in benefit received as a result of salary packaging child care using the FBT exemption would depend on an individual's marginal tax rate. This could mean that high income families facing high marginal tax rates may benefit substantially more than families on low and middle incomes.⁵⁸² However, on balance, HREOC supports extending the FBT exemption as part of a suite of measures to improve the availability and affordability of child care for parents in paid work and as a way of encouraging employers to take a greater role in the provision of child care. Further discussion of child care is contained in Chapter 7.

Recommendation 30:

That the Fringe Benefits Tax (FBT) exemption be expanded for all employers who subsidise dependent care through the establishment of a child care service either on or off their own premises or through subsidies/allowances paid towards employees' care costs (such as vacation care allowances, frail aged day programs, respite care and in-home support for people with disability).

There are also a variety of views on this issue on whether or not the costs of child care and other dependant care should be considered tax deductible, on the basis of constituting a legitimate work related expense. HREOC has been told:

Cost of child care remains a difficult issue for many working parents. A frequent comment about child care was that it is often the biggest work-related expense, yet it is not tax deductible.⁵⁸³

While the Australian Government has announced the introduction of the 30 per cent child care tax rebate, this is currently capped at a maximum of \$4 000 per annum. The Australian Taskforce on Care Costs (ToCC) estimates that lower income families would still pay a further \$4 000 in addition to the rebate amount and average middle to higher income families would pay more than an additional \$13 000 per year.⁵⁸⁴

The issue of tax deductibility is an issue which also received considerable attention in House of Representatives Standing Committee on Family and Human Services *Inquiry into Balancing Work and Family*. One of the Inquiry's recommendations which received significant attention was a proposal to amend the *Income Tax Assessment*

579 Australian Industry Group, Submission 162, p 7.

580 Employer Consultation, Darwin, 22 September 2005.

581 *ibid.*

582 See for example the Hon Peter Dutton MP Minister for Revenue and Assistant Treasurer *Low And Middle Income Earners Would Be Worse Off Under Labor's Childcare Proposal* Media Release 28 July 2006 and Australian Council of Social Service *Fair Start: 10-point plan for early childhood education and care* ACOSS Info 383 ACOSS Strawberry Hills February 2006, p 16.

583 Community and Public Sector Union, Submission 90, p 9.

584 Taskforce on Care Costs *Creating Choice: Employment and the cost of care* February 2005, p 5. As previously noted, these costs have only been able to be claimed from the end of the 2005-06 financial year, requiring parents to wait until after July 2006 to claim back costs incurred in July 2004.

Act 1997 to permit child care and other dependant care expenses to be claimed as a tax deduction where those expenses are incurred for the purposes of earning an assessable income.⁵⁸⁵

International practice in relation to the tax deductions for care costs varies, however a range of countries including Canada, Austria and Belgium provide tax deductibility while others including the US, UK, Netherlands, France and New Zealand provide tax credits to offset the cost of care. In Belgium 80 per cent of child care costs are tax deductible to a maximum of €11.20 per day and in the UK, a tax credit is available of 70p for each £1 paid in child care fees.⁵⁸⁶

A number of submissions to HREOC highlighted the perceived injustice in current arrangements which do not allow for tax deductibility:

... someone can go to Brisbane to check on their investment property and claim their hotel room and dinner with friends, but normal people still can't claim the cost of childcare against our wage ... in that aspect the government lets parents and families down.⁵⁸⁷

To enable parents to fully participate in the workplace, it is imperative that childcare expenses are made fully tax deductible. The federal government should also take greater responsibility for providing improved assistance to families to access affordable child-care and itself offering formal childcare at affordable prices to allow parents to better balance paid work.⁵⁸⁸

... evidence points to the fact that many women who decide to pursue a career and a family are unwilling to risk that career to stay at home and raise their children. Whether they use government or work provided child care places or employ a nanny, as career women they are tax payers, and often quite high tax payers. Why not then have child care as a tax deduction?⁵⁸⁹

Tax deductions by their nature provide the greatest benefit to those individuals on the highest incomes. A Taskforce on Care Costs report explored the options with respect to tax deductibility and recommended that the most equitable solution for the largest number of employees would be to introduce a tax rebate for care costs, rather than provide greater tax deductibility.⁵⁹⁰

The proposal put forward by the House of Representatives Standing Committee on Family and Human Services *Inquiry into Balancing Work and Family* aims to ensure that no parents would be worse off as a result of claiming child care as a tax deduction by offering parents a choice of either claiming the deduction or retaining the current arrangement of receiving Child Care Benefit and/or the Child Care Tax Rebate.

However, this does not completely address concerns about the apparent inequity of higher income families receiving a greater benefit than lower income families. Modelling carried out for the Inquiry by Enotech not only indicates that families with high incomes would benefit most, but that low income families could face increases in child care costs and consequently decrease their working hours while high income

585 House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006, pp 266-267.

586 Taskforce on Care Costs *Creating Choice: Employment and the cost of care* February 2005, p 6. See also Taskforce on Care Costs (ToCC) *Where to Now 2006 Final Report* 18 October 2006.

587 Community Consultation, NSW Central Coast, 4 August 2005.

588 Job Watch Inc, Submission 38, p 13.

589 Country Women's Association of New South Wales, Submission 73, pp 3-4.

590 Taskforce on Care Costs *Creating Choice: Employment and the cost of care* February 2005 pp 23- 40.

families would be likely to increase working hours.⁵⁹¹ HREOC is particularly concerned that such an outcome could decrease workforce participation, particularly for women and make the balance of paid work and family/carer responsibilities even more difficult to achieve. On balance HREOC is of the view that while there is certainly a legitimacy to claims that child care is a work related expense, there are more effective and equitable ways of assisting families with the costs of child care such as by modifying the current Child Care Benefit and Child Care Tax Rebate schemes.

Improving the availability and affordability of child care is discussed further in Chapter 7.

6.11 Linking superannuation to care

A number of submissions and consultation participants raised Australia's superannuation system as an area that needed reform because of its lack of recognition of unpaid caring work.⁵⁹² As noted at in Chapter 4 and Chapter 8, unpaid care saves the economy billions of dollars per year.⁵⁹³ Some submissions argued that the existing superannuation system does not value carers, who cannot contribute as much to their superannuation due to their time spent out of the workforce:

Under the existing Australian superannuation system, anyone who spends extensive period(s) of their working life caring for young, disabled or frail family members within the family ends up as an economic dependent in retirement because the unpaid nature of most caring duties prevents them accumulating adequate superannuation. The message loud and clear is "Australia does not value its carers, they're bludgers."⁵⁹⁴

Linking superannuation only to paid work creates, as one of HREOC's advisory panel members phrased it, "a work-focussed, care-less culture".⁵⁹⁵ It also disadvantages those who spend large amounts of time out of paid work in order to provide care to family members. Currently it is women who are more likely to spend more time out of paid work due to caring responsibilities and as a result are more likely to retire with much lower levels of superannuation benefits and retirement savings than men.⁵⁹⁶ Half of all women currently aged 45-60 years have less than \$8 000 in superannuation.⁵⁹⁷ This very low amount of superannuation is undoubtedly linked to lifetimes spent providing a high level of unpaid care work.

Currently superannuation rules allow couples to split superannuation from 1 January 2006. This provides some couples where at least one partner is in paid work to share their superannuation benefits and access two eligible termination payment tax-free thresholds and two reasonable benefit limits, however superannuation funds are not obliged to offer this provision. Superannuation can also be split in cases of divorce by mutual agreement or court order.

591 House of Representatives Standing Committee on Family and Human Services *Balancing Work and Family Report of the inquiry into balancing work and family* Commonwealth of Australia Canberra December 2006, Appendix E, p 395.

592 For example, Noel Wilson, Submission 47 and Metaira Pty Ltd, Submission 49.

593 See Chapter 4 (section 4.7) and Chapter 8 (section 8.3).

594 Metaira Pty Ltd, Submission 49.

595 HREOC Advisory Panel Meeting, Sydney, 30 January 2006.

596 Premiers Council for Women (SA), Submission 96, p 11, p 19 and pp 22-23. See also *Striking the Balance* discussion paper, pp 68-70.

597 Simon Kelly "Entering Retirement: The Financial Aspects" in Peter Kriesler, Michael Johnson and John Lodewijks (eds) *Essays in Heterodox Economics* Proceedings and Refereed papers Fifth Australian Society of Heterodox Economics Conference 11-12 December 2006, University of New South Wales Sydney, pp 285-297 at p 295.

A tax incentive to encourage employees with caring responsibilities, particularly women, to increase their voluntary contributions to superannuation is one recommendation suggested among submissions to HREOC.⁵⁹⁸ Other suggestions include progressing pay equity, changing legislative guidelines for payment of the superannuation guarantee contribution to ensure that it is paid from earnings of \$1 and developing a policy to increase women's education in regard to superannuation and retirement savings.⁵⁹⁹ Currently employers are only required to make superannuation guarantee contributions on behalf of employees aged between 18 and 70, who are paid \$450 (before tax) or more in a calendar month.⁶⁰⁰ With women still over-represented in many lower paid positions and working in casual and part time employment, this is an important concern for many women.⁶⁰¹ HREOC would support further work being carried out in relation to this issue.

Another suggestion is to introduce a superannuation scheme whereby the Australian Government would make "direct contributions on behalf of primary carers of young, disabled or frail family members, so carers are not disadvantaged and stigmatised in retirement".⁶⁰²

Submissions also raised suggestions in relation to the Superannuation Co-contribution Scheme.⁶⁰³ Currently the Superannuation Co-contribution Scheme allows eligible employees (low income employees less than 71 years of age) to have their superannuation contributions matched by the government. This scheme aims to assist many low income women to increase their superannuation savings, but requires that contributors receive 10 per cent or more of their income from eligible employment. While many people who are not in the paid workforce and receive a benefit such as a pension, parenting payment or carer payment may not wish to make superannuation contributions while receiving these payments, this is an option which should be made available.

Recommendation 31

That the Australian Government extend the Superannuation Co-contribution Scheme to individuals who are not in the paid workforce because of caring responsibilities including caring for dependent adults or young children. An individual is to be eligible for government funded co-contributions if he or she is:

- a) eligible for Carer Payment;**
 - b) eligible for Parenting Payment; or**
 - c) in receipt of Carer Allowance in addition to another Government income support payment for people of working age such as Disability Support Pension/Newstart/Austudy/Abstudy.**
-

Regulations which came into effect in 2005 allow people who have reached preservation age⁶⁰⁴ to access some of their superannuation without having to fully retire, such as by working reduced hours or part time. This is a useful measure which could be more widely publicised as a way of assisting older working carers.

598 Premiers Council for Women (SA), Submission 96, p 19.

599 *ibid*, p 22.

600 Australian Taxation Office *Superannuation guarantee – a guide for employers* Australian Taxation Office 2006 p 5.

601 Diana Olsberg "Women And Superannuation: Still Ms...ing Out" (2004) 15 *Journal of Political Economy* 53 pp 161 – 178 at p 165.

602 Metaira Pty Ltd, Submission 49.

603 Noel Wilson, Submission 47.

604 The age at which a person can access the benefits in their superannuation fund.

HREOC supports formal recognition of and compensation for the significant contribution that unpaid caring work makes to national interest objectives such as prosperity and social wellbeing.

Recommendation 32:

That the Productivity Commission undertake an inquiry into the feasibility of establishing a superannuation-like framework whereby the unpaid work of carers can be recognised by the Australian Government.

6.12 Conclusion

The tax and welfare systems play an integral part in supporting people to undertake paid work and care and should ideally work in unison with legislative and workplace measures that support a shared work – valued care framework. The welfare system should avoid discriminating against some family types by providing them with less choice in their paid work and care arrangements. It should also cater to the variety of families and carers combining their responsibilities with paid work and be flexible enough to meet changing needs for care and support arising throughout the life course. Helping families manage changing roles, including sharing care better between partners is also important for good paid work and family balance and this is an obvious gap in the current system. A more streamlined system with support for people to navigate the various forms of assistance and services would be helpful, particularly people in vulnerable situations or those who are transferring from one type of paid work and family arrangement to another.

The tax system should work in conjunction with the welfare system to deliver genuine choices to parents about the appropriate sharing of family care and paid work. They should also work together to support other types of caring across the variety of Australian family types and enable and encourage workforce participation among carers without undue penalty both directly and indirectly through supporting workplaces to support their employees with family/carer responsibilities. EMTRs and other disincentives should be kept as low as possible so that people are not discouraged from or penalised as a result of engaging in paid work. The tax system should ideally take into account the value of unpaid work and operate to support those who care both now and into the future as carers retire. More broadly there needs to be a recognition of the limits to economic growth, and the development of policies that value time as well as money so that families are able to achieve a healthy and sustainable balance between their paid and unpaid responsibilities across the life course.

Chapter 7: Government Support: Early childhood education and care

7.1 Introduction

In HREOC's consultations with individuals and groups around the country, the provision of early childhood education and care (ECEC) emerged as a central concern of Australian families struggling to balance their paid work and care responsibilities. The provision of child care for infants, care for school aged children before and after school and during school holidays, and preschool education were the services most frequently raised by parents to HREOC. While it was not the intention of this project to carry out a thorough analysis of the ECEC services in this country,⁶⁰⁵ or to put forward a detailed program of reform, it is clear from our conversations with parents around the country that reform is urgently required.

This chapter provides an overview of the basic landscape of provision of ECEC services in Australia. It considers the services most used by parents in paid work which assist them in balancing their paid work with their responsibilities for their children – child care for infants, care and education for preschool aged children and outside school hours care for school aged children. It also aims to place these services within the context of a continuum of ECEC services which include a wide range of activities to support children's social, cognitive, physical, and emotional development such as playgroups, child care services, preschools, child health services, home visiting, parent education and programs for children with a disability or developmental delay.

The chapter considers what children have told us they want and need, the importance of ECEC services to children's wellbeing and gives an overview of the services and support that governments currently provide. The chapter then examines the key ways in which the provision of ECEC might be improved – principally through improving the availability and affordability of services, increasing flexibility of operating hours and addressing accessibility. Finally, this chapter considers the consequences for working parents, policy makers and service providers failing to address these concerns.

7.2 What children want and need

Children that HREOC spoke to during our consultations nearly all told us they wanted to spend more time with their parents.

I would love them to come to school functions more than they do.⁶⁰⁶

My (step) dad does weekend work sometimes. Yeah, I'd like to see him more.⁶⁰⁷

I'd like to see my mum more in the holidays.⁶⁰⁸

This desire for time is reciprocal with parents also wanting more time with their children.

605 This chapter does, however, contain summary information about the provision of child care and other care services (the *Striking the Balance* discussion paper did not contain detailed information in these areas).

606 HREOC Focus group 15, January 2006.

607 HREOC Focus group 15, January 2006.

608 HREOC Focus group 15, January 2006.

I looked for a part time, three day a week job but I couldn't find it. I'm envious of the time she spends with our baby.⁶⁰⁹

I have a 4 year old ... We both work full time ... The amount of work we do we are finding we don't have a lot of quality time ... I don't spend enough time with my child – or my partner.⁶¹⁰

These views are backed up in a recent survey undertaken by the Australian Childhood Foundation, in which 26 per cent of children reported wanting to spend more time with their parents and 37 per cent wanted to do more things with their parents.⁶¹¹ Previous studies by the same researchers found that over a third of parents also believed they did not spend enough time with their children, three out of four parents believed that balancing work and family was a serious issue for them and 71 per cent of parents interviewed struggled to find the time to enjoy activities together with their children.⁶¹²

However, children need love, affection, care and developmental opportunities not just from parents and siblings but from other significant adults in their lives and their peers. Adults are better able to nurture children when they are in supportive communities that take the experiences, needs, interests and development of children seriously.⁶¹³

There is clear evidence that while families are the most important influence in children's lives, good quality children's programs do not just enhance children's wellbeing by increasing their parents' labour market attachment and socio-economic status, they also enhance children's development, mediate against risk, help with the development of peer relationships and provide a site for building parental supports and networks.⁶¹⁴

The evidence of these benefits is clearest for children aged three to five. Research into the benefits of child care for infants is more equivocal with some researchers suggesting that there are clear attachment and developmental benefits for infants in formal, high quality children's services and conversely others who assert that for very young infants, early entry into care and long hours of care can be disruptive to mother/child attachment, may make mother/child interaction less harmonious and may be linked to high stress levels and behavioural difficulties.⁶¹⁵ What is agreed by

609 HREOC Focus group 10, August 2005.

610 HREOC Focus group 10, August 2005.

611 Joe Tucci, Janise Mitchell and Chris Goddard *Every Child Needs a Hero: A report tracking Australian children's concerns and attitudes about childhood* Australian Childhood Foundation Melbourne July 2006, p 13.

612 Joe Tucci, Janise Mitchell and Chris Goddard *The Concerns of Australian Parents* Australian Childhood Foundation and the National Research Centre for the Prevention of Child Abuse, Melbourne March 2004, p 11 and Joe Tucci, Janise Mitchell and Chris Goddard *The Changing Face of Parenting: Exploring the attitudes of parents in contemporary Australia* Australian Childhood Foundation and the National Research Centre for the Prevention of Child Abuse Melbourne April 2005, p 13.

613 Frances Press *What About the Kids? Policy directions for improving the experiences of infants and young children in a changing world* NSW Commission for Children and Young People, Queensland Commission for Children and Young People and Child Guardian and National Investment for the Early Years (NIFTeY) 2006, p 6.

614 *ibid*, p 10.

615 See Graham Vimpani, George Patton and Alan Hayes "The Relvance of Child and Adolescent Development for Outcomes in Education, Health and Life Success" in *Children's Health and Development: New research directions for Australia* Research report No 8 Australian Institute of Family Studies Melbourne 2002, pp 23-24; Lieselotte Ahnert and Michael Lamb "Child Care and its Impact on Young Children (2-5)" *Encyclopaedia on Early Childhood Development* Centre of Excellence for Early Childhood Development Montreal 2004, pp 1-6; and Peter S Cook, Submission 169 and Submission 181 (Supplementary). See also *Striking the Balance* discussion paper pp 59-62.

researchers is that low quality formal care, large groups, long hours and instability of care can present risks of insecure attachments and behaviour problems.⁶¹⁶

This research reinforces the need, further discussed in Chapter 4, for the introduction of a national scheme of paid maternity and consideration of paid parental leave which would give Australian families real choices about the care options for their infant children. It also reinforces the importance of high quality children's services.

7.3 Early childhood education and care services and children's wellbeing

In addition to the vital role that ECEC play in assisting parents to balance their paid work and family/carer responsibilities, it is well recognised that ECEC services, particularly for children from birth to eight years, are of critical importance to individuals' long term mental, physical and emotional health and demonstrate cost-effective benefits for children, their families and the community.

The Nobel prize winning economist James Heckman has pointed out that not only does investment in young children promote fairness and social justice, it also offers broader social and economic benefits: increasing productivity, raising earnings and promoting social attachment, with returns to dollars invested estimated to be as high as 15-17 per cent.⁶¹⁷

The OECD has identified eight key elements of policy that are likely to promote equitable access to quality ECEC, which should form part of wider efforts to reduce child poverty, promote gender equality, improve education systems, value diversity and increase the quality of life of both parents and children. These key elements are:

- *a systematic and integrated approach to policy development and implementation* with a clear vision for children from birth to eight and a lead agency which works in coordination with others to foster coherent and participatory policy development which caters for the needs of diverse children and families;
- *a strong and equal partnership with the education system* which supports life long learning from birth and recognises ECEC as an important part of the education process;
- *a universal approach to access, with particular attention to children in need of support*, with close to universal access for children from age three and ensuring that all children have equal opportunities to attend regardless of family income, parental employment status, specific educational needs or ethnic/language background;
- *substantial public investment in services and infrastructure*;
- *a participatory approach to quality improvement and assurance* which engages staff, parents and children;
- *appropriate training and working conditions for staff in all types of services* taking account of the growing educational and social responsibilities of the profession and the critical need to recruit and retain a qualified, diverse and gender-mixed workforce and ensures a career that is satisfying, respected and financially viable;

616 Frances Press *What About the Kids? Policy directions for improving the experiences of infants and young children in a changing world* NSW Commission for Children and Young People, Queensland Commission for Children and Young People and Child Guardian and National Investment for the Early Years (NIFTeY) 2006, p 11.

617 James J Heckman "The Economics of Investing in Early Childhood" Address to the NIFTeY Conference *Prevention: Invest now or pay later Reducing the risk of poorer life outcomes by intervention in the early years* University of NSW Sydney 8 February 2006.

- *systematic attention to monitoring and data collection* in relation to the status of children, provision of early education and care, the early childhood workforce and which identifies existing gaps in data collection and priorities for collection and evaluation; and
- *a stable framework and long term agenda for research and evaluation* with sustained investment to support research on key policy goals.⁶¹⁸

Plans have been on the agenda for a number of years now for the introduction of a broad policy framework known as the National Agenda for Early Childhood to guide current and future investment to support optimal development of children. Following an Australian Government decision in 2002, this Agenda was developed jointly with State and Territory governments and has four broad key action areas: healthy young families, early learning and care, supporting families and parenting and creating child friendly communities.

The Australian Government endorsed the National Agenda in December 2005 and it is now the framework that guides all Australian Government early childhood policy and program development. At the time of writing, governments in the ACT and Tasmania had also endorsed the Agenda which is informing work being undertaken by the Council of Australian Governments (COAG).⁶¹⁹

The national endorsement of this policy framework will represent an important development for Australian children in an environment in which the provision of ECEC has been historically fragmented with patchy availability and wide variations in affordability. Integration between child care services and State and Territory provided schooling, including preschool, is often poor.

While this chapter will focus on the provision of child care services, it is important to consider that care services must be provided within a coherent framework of other children's services. These include:

- services to support the health of pregnant women, quality antenatal care and education for parents;
- quality, universal early childhood health services for children up to school age;
- programs to support at risk parents such as home visiting and early intervention and support services;
- child protection systems; and
- child safety programs.

Recommendation 33:

That the Australian, State and Territory governments finalise the National Agenda for Early Childhood as a matter of urgency to identify priorities for reform in early childhood education and care services, and the responsibilities of all stakeholders in delivering these priorities.

7.4 Government provision of early childhood education and care services

The preamble to the *Convention on the Rights of the Child* (CRC) recognises the family:

... as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be

618 OECD *Starting Strong: Early childhood education and care* OECD Paris 2001, p 11.

619 See discussion in section 7.7.

afforded the necessary protection and assistance so that it can fully assume its responsibilities in the community.

The CRC also recognises that the role of parents is not one to be carried out solely as an individual responsibility, and requires States to take all appropriate measures to:

... render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities.⁶²⁰

As the United Nations Children's Fund (UNICEF) has noted in its guide to the implementation of CRC,⁶²¹ article 18 concerns the balance of responsibilities between parents and the state in the performance of parents' child-rearing responsibilities.⁶²² It also reflects the requirement to ensure a child such protection and care as is necessary for his or her wellbeing.⁶²³ UNICEF has noted that "generous maternity and paternity leave and pay and 'family-sensitive' working conditions clearly meet the needs of both children and working parents."⁶²⁴

Governments are responsible for a wide range of programs which enable parents and carers to meet their responsibilities to children from income support programs through to regulation of child care. The Australian, State, Territory and local governments all have roles in the funding and administration of ECEC, with services delivered by the private, public and community sectors within a market environment. In brief, the Australian Government is responsible for child care support which includes:

- the administration and payment of CCB payment to families and services;⁶²⁵
- managing the quality assurance framework for child care services;
- providing financial support to high need services (which may be shared with State or Territory governments);
- maintaining some statistical data on supply of child care places and assisting parents and employers with information on child care options via the Child Care Access Hotline;
- funding and administering the Inclusion and Professional and Support Program (IPSP) for children with specific needs; and
- managing the Jobs, Education and Training (JET) child care fee assistance program.

States and Territories have primary responsibility for family and community support services, child welfare and protection services (for children who have been or are being abused, neglected or otherwise harmed and whose parents cannot provide adequate care or protection), preschools, schools and the regulation of child care services. The main areas of regulation of child care services include:

620 See Article 18 (2). See also discussion of CRC in Chapter 1 (section 1.3) and Chapter 3 (section 3.2).

621 See Article 18(2) UNICEF *Implementation Handbook for the Convention on the Rights of the Child* (Revised Ed) 2002.

622 *ibid*, p 243. See also Human Rights Committee General Comment 17 1989 (UN Doc HRI/GEN/1/Rev 5, 133) in which the Committee states, in relation to Article 17 of the International Convention on Civil and Political Rights, which is similar to Article 18 of CRC, that "since it is quite common for the father and mother to be gainfully employed outside the home, reports by States Parties should indicate how society, social institutions and the State are discharging their responsibility to assist the family in ensuring the protection of the child".

623 See Article 18(2) UNICEF *Implementation Handbook for the Convention on the Rights of the Child* (Revised Ed) 2002, p 250.

624 *ibid*, p 253.

625 Including Special Child Care Benefit to families where a child is at serious risk of abuse or neglect or in exceptional cases where they cannot afford care and Grandparent Child Care Benefit to eligible grandparents providing care: Australian Government Department of Families Community Services and Indigenous Affairs *Child Care Service Handbook 2006-2007* Australian Government Canberra at www.facsia.gov.au/childcare/handbook2006-07/index.

- licensing for centre based long day care (in all States and Territories), family day care and outside school hours care (in some States and Territories) covering aspects of services' operations such as the numbers of children in care, the size of rooms and playgrounds, the number of staff and qualifications and health and safety requirements
- contributing in some States and Territories to capital and operational costs of services; and
- funding services such as preschools which are not federally funded; and
- implementing and monitoring national standards in long day care, outside school hours care and family day care.

While this sharing of responsibility may allow services to be more locally focused, it has resulted in a challenging environment for the development of an integrated ECEC system. As highlighted in a recent report by the Australian Council for Educational Research, the:

... bewildering mix of national and state-based early childhood policy, funding and legislative requirements, have resulted in a labyrinth of child care and preschool services. There are complex layers and connections between government, voluntary and church groups, public education systems, independent, Catholic and other religious schools, community organisations, free-market forces, small business owner-operators and major commercial child care companies, plus of course families and children. So complex is the early childhood landscape, that many people, including families seeking care, have difficulty negotiating the maze of early childhood services.⁶²⁶

As previously emphasised, it was not the intention of this paper to consider the entirety of ECEC provision in Australia and the aim is to focus on those areas of chief importance to working parents and carers – that is, availability and affordability of care.

Government expenditure on ECEC is substantial – Australian, State and Territory government expenditure on children's services totalled approximately \$2 487 million in 2004-2005.⁶²⁷ However, it is important to consider this expenditure in the context of community need and spending priorities. A recent study by the OECD highlights that Australian Government expenditure on ECEC is among the lowest in the OECD – Australian ECEC funding of around 0.4 per cent of GDP falls almost at the bottom of OECD country's expenditure which ranges from two per cent in Denmark to around 0.3 per cent in Canada.⁶²⁸ The European Commission Network on Children has recommended national expenditure of at least one per cent of GDP.⁶²⁹

Parents' and children's use of formal and informal child care

New national statistics on child care recently released by the ABS show that around 20 per cent of Australian children aged 0-12 years attend formal child care with 33 per cent receiving informal care, either alone or in combination with formal care.⁶³⁰

626 Alison Elliot *Early Childhood Education: Pathways to quality and equity for all children* Australian Council for Educational Research Press 2006, p 1.

627 Productivity Commission Steering Committee for the Review of Government Service Provision *Report on Government Services 2006* Australian Government Canberra 2006, p 14.7.

628 It should be noted that these OECD figures do not include all expenditure on ECEC, in particular, this does not include Australian expenditure on cash benefits to families which is among the highest in the OECD: OECD *Starting Strong II: Early childhood education and care* OECD Paris 2006, pp 104-105.

629 *ibid*, p 105.

630 ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 3.

Formal ECEC services are regulated and generally away from the child's home. Informal care is non-regulated and arranged by the child's parents or carer, either in the child's home or elsewhere. Informal services comprise care by family members, friends, neighbours, nannies or baby-sitters and may be paid or unpaid.

Formal ECEC services are provided by the private, community and in some cases public sectors and are funded and regulated by the Australian State and Territory governments. These services include:

- family day care;
- long day care;
- outside school hours care (which includes vacation care);
- occasional care;
- in-home care;⁶³¹
- multi care services;⁶³²
- non-mainstream services;⁶³³ and
- preschools.

In the last decade in particular, the shift from informal to formal care has been marked. While the proportion of children in formal care has not changed significantly (from 19 per cent in 1993 to 25 per cent in 2002) the numbers of government approved formal child care places has grown from 168 000 in 1991 to more than 535 000 by 2004.⁶³⁴

It is important that choices are available for families relying on both formal and informal care services. Clearly the provision of child care is part of the answer and the more types of care available the more likely that families will find care that they regard as suitable for their children. This requires not only support for formal child care but also support to allow parents to freely make the choice to undertake such care themselves without incurring excessive personal costs.⁶³⁵

Many parents prefer their children to be in the care of other family members when they are not available to care for them themselves.⁶³⁶ Australian Women Lawyers pointed out that:

Grandparents are increasingly fulfilling the role as informal babysitters for their grandchildren. While this situation allows increased participation in the workforce by the children's mother the grandparents may decrease their participation in the workforce. The financial cost to grandparents due to providing care to their grandchildren is one issue that is not often considered.⁶³⁷

631 In-home care is available where a family cannot access an existing child care service, or their circumstances mean that an existing service cannot meet their needs. Families may be eligible if: the parent/s or child has an illness or disability, they live in a rural or remote area, the parent/s work shift work or non-standard hours, they have had a multiple birth and/or have more than two children not yet attending school or where a breastfeeding mother is working from home: Australian Government Department of Families, Community Services and Indigenous Affairs *Child Care Service Handbook 2006-2007* Australian Government Canberra 2006 at www.facsia.gov.au/childcare/handbook2006-07/index.

632 *ibid.* A number of different services such as long day care and outside school hours care operate from the same location.

633 These include innovative and mobile services (for children in rural and remote areas), Multifunctional Aboriginal Children's Services, Indigenous playgroups, Indigenous outside school hours care and enrichment programs and JET crèches: Australian Government Department of Families Community Services and Indigenous Affairs *Child Care Service Handbook 2006-2007* Australian Government Canberra at www.facsia.gov.au/childcare/handbook2006-07/index.

634 AMP/NATSEM *The Costs of Caring in Australia 2002-2005* AMP/NATSEM Income and Wealth Report Issue 13 AMP Sydney May 2006, p 1.

635 See discussion of paid leave entitlements in Chapter 4 (section 4.7).

636 Women's Action Alliance, Submission 85, p 10.

637 Women Lawyers Association of NSW Inc, Submission 112, p 4.

The COTA National Seniors Partnership emphasised the point that this care provision is not without cost.

The flexibility and continuity of informal child care they [grandparents] provide is often unpaid and often incur[s] costs to themselves but financially benefits their children and grandchildren ... When grandparents have to stay in paid work themselves as well as provide caring responsibilities, it may limit senior Australians' opportunity or choices of employment as they age, which will have an impact on their retirement income ... grandparents, as a major informal source of child care require support themselves. The assistance may include educational programs for grandparents in regard to communication with very young children and support available to them in emergency situations.⁶³⁸

Such support requires governments to take a life cycle approach which considers a range of caring needs and assists the diverse range of families, parents and other family carers to maintain an active attachment to the paid workforce.⁶³⁹

Current availability and affordability of child care

There has been much debate in the community in recent times about the availability and affordability of child care services and places and there is some dispute about the extent of this as a problem. Nonetheless, parents frequently raised this issue with HREOC in their submissions and during consultations. Clearly the availability of formal child care services is a critical issue for many families. The importance of this issue was emphasised in consultations where HREOC was told that:

The cost of child care and inflexibility of child care is more of a BBQ stopper than the work/family debate.⁶⁴⁰

Submissions received also suggested child care is a significant issue for many families, which is having major impacts on the balance between paid work and family, and is not only an issue which affects people living in large, eastern seaboard cities as has been suggested by some commentators.

Parents' work patterns are severely affected by the availability of child care. There is clearly a child care crisis in Australia, and until government commits to resourcing high quality, affordable and enough paid child care places, many parents will not have any genuine choices about achieving a balance between their work, their family responsibilities and the other aspects of their lives which are important to them.⁶⁴¹

The capacity to access affordable child care is an important determinant of whether professionals will have children and when they do so or whether they will return to the workforce. Member feedback demonstrates considerable anxiety about child care shortages. Some professionals are deferring returning to work due to a lack of child care places. Others are accepting a place when it is available, whether or not they are ready to return to work, due to the fear of losing the place.⁶⁴²

Availability and cost of child care has clear implications for women's capacity to share in paid work. Recent statistics from the ABS suggest that as many as 143 000 Australians (including 133 000 women) want to participate in the paid workforce but are not able

638 COTA National Seniors Partnership, Submission 40, pp 4-5.

639 See Chapter 4, section 4.9 in particular.

640 Employer consultation, Darwin, 22 September 2005.

641 Independent Education Union of Australia, Submission 159, p 7.

642 Association of Professional Engineers, Scientists and Managers, Australia, Submission 108, pp 8-9.

to do so because they were engaged in caring for children or home duties.⁶⁴³ Clearly this not only due to child care availability, but the significance of availability cannot be discounted.

Funding and quality assurance of formal child care

The Australian Government provides assistance with the costs of formal child care through the CCB which is a means tested payment providing support for families using child care services, whether or not parents are in the paid work force. In 2004-2005 CCB payments amounted to \$1.5 billion.⁶⁴⁴ The CCB is intended to be a contribution by the government to the cost of care, with parent fees set by individual services on the basis of commercial decisions undertaken by operators. Further assistance in the form of the Child Care Tax Rebate, announced during the 2004 election campaign, allows working families to claim 30 per cent out-of-pocket expenses or up to \$4 000 per child per year, however it can only be claimed from the end of the 2005-2006 financial year.⁶⁴⁵

The government also provides assistance to child care services in which children have specific needs (such as children with disability and refugee children who have been subjected to trauma or torture) through the Inclusion Support Subsidy (ISS).⁶⁴⁶ The program provides assistance in the form of additional training for staff, provision of specialised equipment and resources and additional staff.⁶⁴⁷

The quality of formal child care services is administered by the National Childcare Accreditation Council (NCAC). The NCAC administers a process known as Child Care Quality Assurance (CCQA) in long day care, family day care and outside school hours care services. CCQA is linked to CCB payments received by services on behalf of the parents of children in their care. Quality Assurance in family day care services is also linked to the Operational Assistance approval for family day care schemes. All services are required to register with NCAC and meet the requirements of the appropriate CCQA system in order to be eligible to receive CCB.⁶⁴⁸

While continued CCB approval for services requires that services comply with the requirements of the CCQA five step process, the model is not based on compulsory compliance. This means a service may still be able to continue to receive CCB, even if it has failed accreditation on more than one occasion, by being considered to have made unsatisfactory progress in relation to the CCQA. The NCAC is limited to reporting services that either fail to comply with or make satisfactory progress through CCQA to a unit in FaCSIA and the policy focus is one of professional development of services rather than imposing sanctions, such as cancellation of a service's CCB approval. One of the issues that has been raised by advocacy groups is that despite the significant level

643 In September 2005 there were 325 000 Australians who wanted to work but were neither actively looking for work nor available to start work within four weeks. Of these, 69 per cent were women, and 44 per cent reported their main activity as "home duties or caring for children": ABS *Persons Not in the Labour Force, Australia September 2005* Cat No 6220.0 March 2006, pp 19-20.

644 Australian Government Department of Families, Community Services and Indigenous Affairs *Portfolio Budget Statements 2004-05* (FaCSIA) Budget Related Paper No 1.8 Commonwealth of Australia Canberra 2003, p 31.

645 Outside-pocket expenses are total child care fees for approved care, less the actual CCB entitlement: Australian Taxation Office *30% Child Care Tax Rebate Instructions and Transfer Advice for Individuals* Australian Government Canberra 2006.

646 The ISS is part of the integrated Inclusion and Professional Support Program (IPSP) and assists eligible child care services to improve their capacity to include children with ongoing high support needs. From 1 July 2006, the ISS replaced the Special Needs Subsidy Scheme (SNS) and the Disabled Supplementary Services Payment (DSUPS).

647 Australian Government Department of Families, Community Services and Indigenous Affairs *The New Child Care Inclusion and Professional Support Program* brochure FaCSIA Australian Government Canberra.

648 Changes to CCQA announced in May 2006 and designed to improve Quality Assurance processes now include unannounced validation visits, unannounced spot checks and non-peer validators: The Hon Mal Brough MP *Child care overhaul to boost quality* Media Release 18 May 2006.

of government expenditure on child care principally through the CCB, the payment is not linked to the actual cost of service delivery.⁶⁴⁹

Recommendation 34:

That the Australian Government in cooperation with the States and Territories address concerns about quality in early childhood education and care services by initiating a review of the current quality assurance framework administered by the National Childcare Accreditation Council and establishing more transparent systems for quality assurance compliance. Such a review should consider standardising regulatory frameworks for service quality including the National Standards for child care, State and Territory frameworks and Quality Assurance frameworks.

Child protection

State and Territory governments are responsible for child protection services including receiving and responding to reports of concern about at-risk children, providing support services where harm or a risk of harm is identified, initiating intervention and placing children in out-of-home care to secure their safety, working with families to reunite children where possible and securing permanent alternative care where family reunification is not possible.

This paper does not have the capacity to consider child protection in great detail, but it is important to note that services for at-risk children are a critical element of the continuum of ECEC services. Likewise, mainstream child care services can act as a key site of intervention for at-risk children and their families.

It is also relevant to note that out-of-home care of children is often taken on by two particular groups of carers – grandparents and Indigenous extended families – with implications for the ability of these family members to participate in the paid workforce.

Children in out-of-home care may be in the care of someone other than a parent either as a result of a formal care and protection order taken out by a State or Territory community services agency or as a result of an informal arrangement made by a parent or other guardian. Children in out-of-home care may be in home-based care with a relative, other kin or a foster carer, or live in residential care such as a family group home or in supported independent living. The ABS has estimated that almost 48 000 children nationally are in the care of someone other than a parent (or step-parent)⁶⁵⁰ and around 22 000 children were in formal out-of-home care nationally in 2004. Ninety four per cent of these children in formal out-of-home care are in home-based care, 40 per cent of whom with relatives or other kin.⁶⁵¹

Aboriginal and Torres Strait Islander children are significantly over-represented among children in out-of-home care. National child protection data shows that Indigenous children are nearly 10 times as likely to be the subject of a child protection substantiation and six times more likely to be in out-of-home care, a key reason for which is clearly the generally lower socio-economic status of Indigenous families.⁶⁵²

As outlined above, the significant numbers of children in the care of family members has implications for the support provided to non-parent carers, many of whom are

649 Australian Council of Social Service *Fair Start: 10-point plan for early childhood education and care* ACOSS Info 383 ACOSS Strawberry Hills February 2006, p 3.

650 ABS *Family Characteristics Australia June 2003* Cat No 4442.0 September 2004, p 34.

651 Australian Institute of Health and Welfare *Australia's Welfare 2005* AIHW Canberra 2006, p 114.

652 *ibid*, p 108.

the child's grandparents. The Aboriginal Child Placement Principle which preferences placements for Indigenous children with their extended family, their own Indigenous community and subsequently other Indigenous people further increases this issue for Indigenous families. In June 2004, the proportion of Indigenous children placed in line with this principle ranged from more than 80 per cent in Western Australia to 40 per cent in Tasmania.⁶⁵³

7.5 How do we make child care services more family-friendly?

It is important that children's services are seen as an integrated part of national goals to promote the wellbeing of children and families. In order to make children's services more useful for and supportive of families trying to balance their paid work with care responsibilities, the central concerns must be availability and affordability of services and access for all families.

Increased availability of formal child care

ABS statistics demonstrate a significant level of unmet need in relation to all forms of formal child care. The recently released ABS Child Care Survey found that parents required additional formal care for almost 190 000 children nationally.⁶⁵⁴ The survey found that one third of these parents said they did not use additional care because services were booked out or no places were available, 10 per cent said that no services existed or they did not know of any in the area and 16 per cent cited the prohibitive cost of care.⁶⁵⁵

The majority of parents were seeking additional care for work reasons (54 per cent), personal reasons (31 per cent – although less than 10 per cent were to give parents a break/time alone) and reasons related to the child's development or needs (12 per cent).⁶⁵⁶

It is also important to note that many parents stated that they did not require formal care for some of the same reasons. Also reflecting unmet demand, 99 000 children were reported as not requiring additional care due to the cost of care and other services reasons accounted for a further 49 500 children not requiring additional child care.⁶⁵⁷

Child care availability was an issue frequently raised with HREOC in submissions and consultations.

It is the Commission's view that access to affordable, quality child care, both long day care and after school care, is fundamental to families in achieving a balance between paid work and family responsibilities. Where child care services are unavailable, one parent, who may be the only parent, must assume responsibility for the care of children, forcing them to reduce their participation in the workforce. This can have negative impacts on family income, as well as result in relationship stress, which can be detrimental to children.⁶⁵⁸

653 Australian Institute of Health and Welfare *Australia's Welfare 2005* AIHW Canberra 2006, p116.

654 188 400 in June 2005, which represents 5.6 per cent of all children in the survey: ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 8 and p 16. It should also be noted that this figure represents a need for additional care over a four week period which in almost a third of cases was as little as one day over the four week period: ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 31.

655 ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 8.

656 *ibid*, p 32.

657 *ibid*, p 33.

658 NSW Commission for Children and Young People, Submission 175, p 7. See also Independent Education Union of Australia, Submission 159, p 7.

The Australian Institute of Health and Welfare (AIHW) reports that while many parents report no difficulties in accessing child care a significant number have experienced difficulties including:

- finding care for a sick child (36 per cent);
- the cost of child care (26 per cent);
- finding good quality care (21 per cent), care at their choice of centre (23 per cent) or care in the right location (19 per cent);
- getting the number of hours required (22 per cent);
- juggling multiple child care arrangements (19 per cent);
- finding care during school holidays (18 per cent); and
- finding care for a child with “special” needs (11 per cent).⁶⁵⁹

HREOC has been told that child care for sick children is a particularly common problem for many parents and is also recognised by employers who told HREOC that there needs to be “[m]ore flexible child care arrangements available for sick children”.⁶⁶⁰ And as was pointed out by a number of parents, “under fives are always sick”.⁶⁶¹

Undersupply of child care is a particular concern in rural and remote parts of Australia and areas dominated by low income families where services are generally less profitable and sustainable. Services in these areas may attract higher fees to allow for the risk of bad debts, to pay higher salaries with which to attract or retain staff or because there is little competition. Community based long day care in these areas may also charge higher fees to offset the cost of providing additional services to children with specific needs who make up a higher proportion of children in community based centres and who are more often concentrated in more disadvantaged communities.⁶⁶²

The NT government subsidizes child care, as well as the federal government, to the tune of something like \$20 a week for the provider which lowers the cost but availability is still a problem.⁶⁶³

The availability of child care services presents even greater difficulties when the child, or the parent, has specific needs. These may include such things as specific needs related to disability, problems posed by inaccessible services or a need for culturally appropriate services. While the Australian Government provides a range of programs including the IPSP to assist children with additional needs to participate in inclusive mainstream child care programs, People with Disability Australia emphasised that:

The lack of child care and before and after-school care that will enrol children with disability prevents many women from being able to seek work. For women with disability, it is almost impossible to find child care and before and after-school care that is both accessible to them and that will enrol their children with disability.⁶⁶⁴

The Australian Government attempted to address some of the issues of availability in the 2005-06 Budget that provided for a lifting of current limits on the number of CCB eligible outside school hours and family day care places. The government estimates this will allow existing and new child care providers to expand their number of places to meet demand and will lead to 25 000 additional places over and above the existing 336 600 places.⁶⁶⁵ While this potential boost to places has been welcomed, concerns

659 Australian Institute of Health and Welfare *Australia's Welfare 2005* AIHW Canberra 2006, p 94.

660 Glenda Sinclair-Gordon, Submission 79.

661 HREOC Focus group 6, February 2005.

662 Australian Institute of Health and Welfare *Trends in the affordability of child care services 1991-2004* AIHW Bulletin 35 Australian Government Canberra April 2006, p 13.

663 Community consultation, Darwin, 22 September 2005.

664 People with Disability Australia, Submission 104, p 6.

665 Australian Government *Budget Paper No 2 Part 2 Expense Measures Families Community Services and Indigenous Affairs* Australian Government Canberra 2005, p 211.

have been raised that the key difficulty will be finding carers willing and able to stay at home, caring for other people's children in a family day care setting, particularly in more affluent areas where demand is higher.⁶⁶⁶ Concerns have also been raised that the lack of apparent success in increasing the availability of long day care since places were uncapped, means that this is simply an attempt to shift responsibility for care further to the market.⁶⁶⁷ Again, it remains to be seen if and when these additional places will become available for use by parents.

A number of people identified the wages paid to child care workers as one of the critical problems in limiting any increase in the availability of child care.

One of the reasons it is so difficult to get child care is because we don't value child care workers as a role in society. The pay they get is peanuts. You can't increase the child care spaces if you don't increase the wage.⁶⁶⁸

Child care workers are doing the long hours looking after someone else's kids and not getting paid for it.⁶⁶⁹

The child care problem is going to get worse because who is going to want to do it? It is such a shit job.⁶⁷⁰

However, it was also stressed that while wages for child care workers should be legitimately increased, shifting those costs directly onto parents would further exacerbate issues of lack of availability or affordability of care. Submissions suggested it was important to:

Improve the pay, status and conditions of early childhood workers to match the duties and level of responsibility their work involves without transferring these costs to families. Currently child care workers' pay is not commensurate with the great responsibility of dependent infants and children. Given widely accepted international research on early childhood which highlights the importance of the early (particularly the first three) years in a child's development, high quality and well remunerated carers need to be attracted into the workforce.⁶⁷¹

Recommendation 35:

That the Productivity Commission instigate an investigation into the Australian early childhood education and care workforce with the aim of addressing shortages in the workforce, recommending ways in which the training and qualification requirements for employees working in children's services might be improved across the board, addressing perceived inequities in employee wages and working conditions and improving the status of children's services professionals.

Improved affordability for parents

The cost of child care was a problem repeatedly stressed to HREOC during our consultations

The cost of child care is incredible.⁶⁷²

666 Alison Elliot *Early Childhood Education: Pathways to quality and equity for all children* Australian Council for Educational Research Press 2006, p 17.

667 National Association of Community Based Children's Services *Costello once again abandons child care to the market* Media Release 10 May 2006.

668 Community consultation, Darwin, 22 September 2005.

669 Employer consultation, Darwin, 22 September 2005.

670 Union consultation, Hobart, 11 August 2005.

671 Premier's Council for Women (SA), Submission 96, p 17.

672 HREOC Focus group 9, July 2005.

The costs of child care vary substantially depending on the type of care being provided to children. The vast majority of informal care (91 per cent) is provided free of charge, while 95 per cent of parents using formal child care services pay fees.⁶⁷³ The average cost of formal care is \$49.40 per week while parents using informal care pay an average of \$5.80 per week.⁶⁷⁴ The highest costs are not surprisingly found in long day care where parents pay an average of \$70.30 per week for an average of 18.4 hours care.⁶⁷⁵ Moreover, 81 900 children in long day care (25 per cent) are incurring costs of \$100 or more per week.⁶⁷⁶

A recent bulletin produced by the AIHW indicated that while increasing levels of government assistance to parents using child care has had a significant impact on the costs of formal child care, gains in affordability since 1991 have been eroded by fee increases in excess of the CCB.⁶⁷⁷ The report found affordability was particularly an issue for sole parents who are studying and receiving Parenting Payment, and whose children are in centre-based long day care, who devote around twice as much of their net income to child care than other family types.

The study also suggested that the removal of operational subsidies for community based long day care centres in 1997 has resulted in greater increases in fee levels in these centres than in private centres.

Affordability of child care was emphasised by many people in HREOC's consultations with the community.

I still find child care prohibitively expensive here in Darwin.⁶⁷⁸

Child care is so expensive and the low rate of pay for child care workers indicates how valued or not the role of child care is in Australia. There was a push by the government for women to do family child care. Sole parents are already stretched and have varying amounts of support, if any support.⁶⁷⁹

Lack of affordable child care, higher expectations about the standard of living people want to live is what drives double income families. People make the decision whether her income is supplementary to the family income or essential to the family income.⁶⁸⁰

While individuals and organisations frequently cite the affordability of child care as a significant issue, it is interesting to note that recent research by the Australian National University's Centre for Economic Policy Research indicates that child care costs have a statistically insignificant effect on the decision by married mothers to work either full time or part time. This suggests that the subsidies paid to couple families using child care may have a limited role in increasing the mother's labour market activity.⁶⁸¹

Submissions to HREOC back up the view that access to care, particularly at the point of return to work, may be a more critical issue for some parents than cost.

673 ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 6.

674 *ibid*, p 22.

675 *ibid*, p 22 and p 17.

676 *ibid*, p 22.

677 Australian Institute for Health and Welfare *Trends in the Affordability of Child Care Services 1991-2004* AIHW Bulletin 35 Australian Government Canberra April 2006, p 12.

678 Community consultation, Darwin, 22 September 2005.

679 Community consultation, Perth, 13 September 2005.

680 Union consultation, Perth, 14 September 2005.

681 Anu Rammohan and Stephen Whelan *Child Care Costs and the Employment Status of Married Australian Mothers* Australian National University Centre for Economic Policy Research Discussion Paper No 517 ANU Canberra April 2006, p ii.

...the biggest hurdle in starting work was to secure a place in child care[.] *'The day care centre there was bursting at the seams. Once you got in you were fine, but waiting for a place is definitely an issue.'*⁶⁸²

As previously mentioned, statistics on unmet demand for child care also suggest that there are many mothers who are not participating in the paid workforce at all as a result of being unable to secure child care. This is particularly so for some groups of mothers including sole parents, families on low incomes, parents with disability and families from non-English speaking backgrounds. While the Australian Government assists Indigenous and refugee children and children from culturally and linguistically diverse (CALD) backgrounds through the Bicultural Support Program and ISS (part of the IPSP), evidence presented to HREOC has highlighted that:

Families of CALD backgrounds also have to overcome barriers to access child care services, some of which are shared by the general population like the cost of child care, availability of this service. However, CALD families experience additional barriers to access child care like such as: understanding of how the system works, for some accepting the fact that the care of young children can be done outside the family context, English language competency, geographical isolation compounded by the lack of transport and being able to afford the cost of travelling, just to mention a few. Within this context often women of CALD backgrounds endure further disadvantage as the family prioritises who then may be able to first access English classes. Women decide to stay at home and care for the children. In this respect CALD families are faced with fewer (if any) choices.⁶⁸³

The lack of quality child care that is accessible, affordable and flexible is a serious barrier to economic participation for men and women from disadvantaged backgrounds. The experience of many of Burnside's service users is that there are far too few conveniently situated child care places to make further education or work a reality for them. In order for sole parents or any other working parents to take up opportunities for training or even have the time to prepare job applications, child care is a necessity. However optimum child care placements are not always available, and even with assistance from government programs, are not affordable for families living in or on the edge of poverty.⁶⁸⁴

Some assistance is also available to parents participating in the Adult Migrant English Program (AMEP) which is required to provide free child care while a participant is attending English language tuition. The cost of AMEP-related child care is the responsibility of the AMEP service provider.

Availability in regional areas

Particular difficulties in accessing child care are found in some rural and remote communities where it is often not financially viable for operators to provide mainstream child care services. People living a long distance from capital cities told HREOC that in remote communities, there can be pressure on employers to assist in the provision of child care, where few other services are available.

I know of two companies that are considering on site crèches. Quality child care is a problem. There is a family focus for organisations, I think they do want to try and do the right thing.⁶⁸⁵

The Australian Government announced in the 2004-2005 Budget that \$365.8 million would be provided over the next four years with a particular focus on rural and remote

682 Kathryn Harrison, cited in Australasian Institute of Mining and Metallurgy, Submission 33.

683 Queensland Council of Social Services Inc, Submission 62.

684 UnitingCare Burnside, Submission 100.

685 Community consultation, Kalgoorlie, 25 September 2005.

areas.⁶⁸⁶ This included funding of \$125.3 million over four years to expand the In-home Care Programme for families with no other child care options⁶⁸⁷ and funding for the Long Day Care Incentive Scheme to create more long-day care centres in rural and urban fringe areas of identified high unmet demand, each with places for young children under the age of three.⁶⁸⁸

It remains unclear what the long term impact of these programs has and will be over the life of the schemes in rural and remote communities.

The government has also recently largely addressed a further problem that was raised with HREOC in a submission from the Queensland Government.

The current allocation of Child Care Benefit subsidies also does not reflect the additional costs of providing care in rural and remote areas, and to children with additional needs and/or disabilities.

The capping of Child Care Benefit places in family day care and school age care has the effect of restricting growth in these sectors. Family day care in particular, is often a more flexible and affordable option for meeting the child care needs of families:

- with a child (ren) with a disability;
- with a child (ren) under two years of age;
- living in rural and remote communities; and
- where the parents work rotating and irregular shifts.

As many of these families continue to experience difficulty in accessing affordable child care, there is strong support in many areas for removal of the cap on the allocation of Child Care Benefit places for family day care and school age care.⁶⁸⁹

Flexibility of child care for long and irregular hours workers

The lack of flexibility in child care for long hours or shift workers has also been identified as a significant issue by a range of groups and individuals.

The opening and closing hours of child care centres are often inflexible and do not coincide with the sometimes long hours that lawyers work. Late fees are imposed for every hour that a lawyer is, for example, caught up with a client or in city traffic and delayed picking up their children.⁶⁹⁰

[N]either the 40 hour work week with its 9 to 5 and Monday to Friday distribution nor the 24-7 globalised economy are working conditions conducive to parents, especially given the rigid and limited schedules of child care

686 Australian Government *Regional Partnerships For Growth And Security 2004–05 Budget Statement* By the Hon John Anderson MP, Senator the Hon Ian Campbell and the Hon De-Anne Kelly MP May 2004 Australian Government Canberra, p 14.

687 Care is provided in the child's home by an approved carer and is only available to families with no other child care options including: families in rural and remote Australia; families working non-standard hours such as police, fire fighters, ambulance, nurses, doctors, and security personnel; families with multiple children under school age; and families where either the parent or child has a chronic or terminal illness: Australian Government *Regional Partnerships For Growth And Security 2004–05 Budget Statement* By the Hon John Anderson MP, Senator the Hon Ian Campbell and the Hon De-Anne Kelly MP May 2004 Australian Government Canberra, pp 81-82.

688 The Long Day Care Incentive Scheme provides short term incentive funding to ensure a service provider's viability while they build their client base and utilisation rates to sustainable levels. The target is the creation of at least 25 new long day care centres offering at least 1 000 places. Community and private providers are able to apply for assistance to establish new long day care centres in rural, remote and urban fringe areas of high, unmet demand for child care: Australian Government *Regional Partnerships For Growth And Security 2004–05 Budget Statement* By the Hon John Anderson MP, Senator the Hon Ian Campbell and the Hon De-Anne Kelly MP May 2004 Australian Government Canberra 2004, pp 81-82.

689 Queensland Government, Submission 166, p 67.

690 Women Lawyers' Association of New South Wales, Submission 112, p 20.

centres, kindergartens, schools, etc. There are real structural issues that prevent parents from being able, as individuals, to achieve a better work-life balance and that also restrain employers in their attempts to help.⁶⁹¹

The hours of child care available do not match up with the hours I would be required to work in many jobs eg the 24 hours rotating shiftwork jobs, night and weekend work.⁶⁹²

If you have a partner it's much easier to stay back at work. Child care finishes at five thirty and you have to be there to pick the child up. I always had to leave early to pick her up ... I missed out on hours of work. I was only paid by the hour (Juanita, 41, 1 child).⁶⁹³

It would be very difficult doing shift work. There's jobs that I've had that I wouldn't be able to do now, like when I was working with young disabled people 8 hour shifts over a 24 hours period seven days a week and I just wouldn't be able to get child care (Ann, 40, 1 child).⁶⁹⁴

...few child care centres reliably offer occasional care, or open after 6pm. This limits the option for flexible child care, essential for casual or temporary staff with irregular hours, or for students whose class timetable changes from term to term.⁶⁹⁵

The FaCSIA 2004 child care census found that of the 3 812 long day care services in Australia surveyed, only 21 were open at the weekend (16 private and 5 community long day care centres) and, of these services, eight operated on both Saturday and Sunday (5 private and 3 community long day care centres). In March 2004, there were two long day care centres open for 24 hours a day.⁶⁹⁶

Family day care also provides options for parents when long or irregular hours care is required. Around 7 per cent of children in family day care received care overnight between the hours of 6pm and 8am. In-home care services also provided extended hours of care, however, as might be expected in this more flexible form of service delivery, a much higher proportion of children (18 per cent) received overnight care.⁶⁹⁷

The National Family Day Care Council of Australia told us that the scheme provides benefits to:

Parents who are shiftworkers, who work in jobs where they are on call or who do relief work (eg nurses, police, hospitality etc). Work arrangements where the parent/s may require weekend and/ or overnight care. Family Day Carer[s] respond well in family emergencies. This flexibility enables the family to react and respond to their own changing environment – work and/or family.⁶⁹⁸

While there is no doubt that in-home and family day care go some way to addressing problems of availability for long hours and irregular hours care needs, and will be partially addressed through recent Budget initiatives to increase the number of family day care places available, there will still be demands for greater coverage by child care centres. The Australian Council for Educational Research has highlighted that the typical family day carer is a mother looking after four children and that in areas of

691 Nadine Zacharias, Submission 53, p 4.

692 Julia, Submission 16, p 2.

693 Respondent of a study by E McInnes (2001) cited in the submission to the Standing Committee on Family and Human Services, National Council of Single Mothers and Their Children, Submission 86, p 6.

694 *ibid.*

695 YWCA Australia, Submission 93.

696 Australian Government Department of Families, Community Services and Indigenous Affairs 2004 *Australian Government Census of Child Care Services* summary booklet FaCSIA Canberra 2005, p 10.

697 *ibid.*, p 10.

698 National Family Day Care Council of Australia. Submission 92.

high employment where the demand for care is highest, there are few stay-at-home mothers willing to care for other people's children.⁶⁹⁹

Integration of school and work hours and availability of outside school hours care

Other changes that would assist working parents include better integration of school hours and standard working hours, and holiday periods.⁷⁰⁰ One submission pointed out:

In all the debate I have heard about work/family balance I have heard nothing about reviewing school hours and weeks despite the fact they appears to have not changed in the 35 years since I started school and probably longer ... How can a woman work with 4 weeks leave and have kids at school which has 12-14 weeks leave – it is clearly impossible. The juggle, the struggle of our daily life could be massively improved by a serious rethink and realignment of school and work ...⁷⁰¹

At present some salaried workers are offered "purchased leave" which can be used to cover care for children in holiday periods.⁷⁰² However, this option is by no means widespread or a solution to the disjuncture between school hours and term timetables and standard working hours. Many children and parents enjoy spending school holiday time together, but for many families restrictions on leave availability mean that this is not an option.

Parents told HREOC about needing:

[q]uality school holiday programs for primary school children. The ones that do run such programs are often full.⁷⁰³

Finding care for school aged children outside of school hours and during school holidays presents an even greater difficulty for many parents than care for preschool aged children and babies. Unless parents are employed at a school themselves, even part time working arrangements rarely align with school hours which are generally from 9am til 3pm. For children attending preschool or kindergarten programs, hours can often be even less well aligned with parents' working hours, with many services offering only part day or part week programs for preschool aged children.

In 2004 there were 2 137 outside school hours services and 1 340 vacation care services providing care to 227 056 children.⁷⁰⁴ Ninety seven per cent of parents using out of school hours care do so for work related purposes as do 93 per cent of parents using vacation care.⁷⁰⁵

Children using outside school hours care has increased substantially in recent years – between June 2002 and June 2005, the numbers of children using before and/or after school care increased by 33 per cent.⁷⁰⁶

The OECD has noted that although out of school care provision for children has not been a policy priority in many countries, demand is high, suggesting a need for

699 Justine Ferrari "Daycare boom 'may compromise quality' – Budget 2006" *The Australian* 12 May 2006.

700 Ann Villiers, Submission 41 and Shona Guilfoyle, Submission 176.

701 Shona Guilfoyle, Submission 176.

702 Purchased leave is a form of unpaid leave where the loss of income for the specified time is spread over an employee's yearly salary. This form of leave is most commonly available in the public sector.

703 HREOC Focus group 10, August 2005.

704 Australian Government Department of Families, Community Services and Indigenous Affairs 2004 *Australian Government Census of Child Care Services* summary booklet FaCSIA Canberra 2005, p 10.

705 *ibid*, p 10 and 15.

706 ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 3.

countries to pay attention to the concept, organisation, funding and staffing of out of school hours care.⁷⁰⁷

With most parents being able to access four weeks annual leave, there is already a shortfall in terms of the parents' capacity to care for children during the school holidays, which is of course substantially exacerbated in sole parent families. In the 12 months to June 2005, 258 500 children attended vacation care, which amounts to 14 per cent of children aged 4-11 attending school. Around 16 per cent of children in couple families where both parents worked attended vacation care compared to 26 per cent of children in sole parent families where the parent was employed.⁷⁰⁸

This creates real difficulties for many parents and may result in school aged children being left with inadequate supervision.

There are two children in my street aged 6 and 9 whose parents locked them in the gate because they couldn't afford child care in the school holidays.⁷⁰⁹

Outside school hours care is also rarely available to children beyond primary school age. While there are no national restrictions on the ages of children accessing CCB approved services and child age limits determined by individual services, there is an obvious gap emerging for many families with parents in paid work. For parents of young high school children, there are often no options at all for formal care. For this age group when children can still require care and supervision, informal care or no adult care at all is frequently the only option.

Recommendation 36:

That State and Territory governments introduce a scheme of financial incentives for primary and secondary schools to introduce outside school hours activities with the aim of enabling all schools to be able to offer education and care to school aged children under the age of 16 during the hours of 8 am – 6 pm.

Recommendation 37:

That Australian, State and Territory governments offer coordinated grant based funding for community based organisations, schools and children's services to establish innovative projects which provide age appropriate activities for high school aged children and young people before and after school and during school holidays.

7.6 Making early childhood education and care services more accessible for parents and children with disability

Article 23 of CRC confirms the right of children with disability to actively participate in community life in a normal and self-reliant manner. The Disability Discrimination Act further makes it unlawful to discriminate against people, including children, with an illness or disability in the provision of goods and services and in educational facilities. This includes child care services. The Disability Discrimination Act also protects associates of people with a disability such as family, friends or carers.

The *Disability Standards for Education 2005*, established under the Disability Discrimination Act, also are intended to provide students with disability the same rights as other students. The Standards give students and prospective students with disability the

707 OECD *Starting Strong: Early childhood education and care* OECD Paris 2001 p 48.

708 ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 9.

709 Community consultation, Darwin, 22 September 2005.

right to education and training opportunities on the same basis as students without disability. This includes the right to comparable access, services and facilities and the right to participate in education and training unimpeded by discrimination. Such rights are not merely formal and education providers are under a positive obligation to make changes to reasonably accommodate the needs of a student with disability.⁷¹⁰ The Standard also requires educational institutions to make reasonable adjustments for children with disability in consultation with their parent or carer.⁷¹¹

However, HREOC has been told:

The lack of child care and before and after-school care that will enrol children with disability prevents many women from being able to seek work. For women with disability, it is almost impossible to find child care and before and after-school care that is both accessible to them and that will enrol their children with disability.⁷¹²

The OECD estimates that around 15-20 per cent of children have specific educational needs at some stage during their schooling.⁷¹³

It is generally accepted that children with physical, intellectual and learning disabilities should be mainstreamed into early care and education services which can be encouraged by providing priority of access and increasing resources to allow additional staff support for children with disability.⁷¹⁴ Early intervention for children with disability aims to strengthen the sensory-motor, emotional, social and cognitive development of children with specific needs with preventative intervention having been shown to be generally more effective than rehabilitation measures in later life. However, as People with Disability Australia made clear in their submission to HREOC:

This situation is especially difficult if the child ... has a disability as many child care centres and outside school hours care options will not accept children with disability or will impose conditions on their enrolment. While this may constitute discrimination, women with disability may not pursue a complaint, deciding that it's not worth the time and effort involved, and it does not address the immediate need for child care.

Until 1 July 2006, the Special Needs Subsidy Scheme (SNSS) provided funding for additional staff in child care services to work with children who have very high support needs. This scheme has now been recast as the IPSP.⁷¹⁵ A recent study of NSW child care services found that a range of difficulties remained for services wishing to access SNSS funds and for parents hoping to use the scheme. These difficulties included complex application processes for multiple sources of government funding, the need to obtain specific medical and professional diagnoses for children, obtaining and keeping competent and confident staff, concerns about duty of care, concerns about the added responsibilities of enrolling a child with disability, maintaining adequate staffing ratios, lack of access to specialist advice and coordinating all the services involved which took carers away from direct time with children.⁷¹⁶

710 Preschools and kindergartens are bound by the Standards, however child care services are not: *Disability Standards for Education 2005* p 7.

711 *ibid*, p 10.

712 People with Disability Australia, Submission 104, p 6.

713 OECD *Starting Strong: Early childhood education and care* OECD Paris 2001, p 58.

714 This is not only in relation to the developmental needs of children but relates to the right to education set out in the Declaration on the Rights of Disabled Persons in Schedule 5 of the *Human Rights And Equal Opportunity Commission Act 1986*.

715 See mention of the IPSP in section 7.4.

716 Gwynneth Llewellyn, Kirsty Thompson and Mathew Fante "Inclusion in Early Childhood Services: Ongoing challenges" (2002) 27 *Australian Journal of Early Childhood* 3, pp 18-23.

The Australian Government has attempted to address many of these concerns through the recent changes to the scheme. The IPSP aims to increase the recruitment and retention of staff through skill development, 67 regionally based Inclusion Support Agencies and individual facilitators to work with child care services in areas such as training, planning and sourcing specialist equipment, while the ISS provides funding to increase staff numbers.⁷¹⁷ Nonetheless, issues of access for children and their parents with disability were repeatedly raised with HREOC and it remains to be seen whether the recent changes to the scheme will address these difficulties.

The Disability Council of NSW highlighted some further issues for parents with disability:

The disability service system is frequently found to be inflexible and inadequate in meeting women's disability-related needs so that they can astutely perform and balance the roles of mother, 'carer' and/or employee. Furthermore the lack of control women can exercise over support, personal assistance or transport arrangements, because of the inflexibility of the service system, restricts the commitments they can make to paid work. People who rely on family members to provide this support will be similarly constrained. To add inflexible, inaccessible child care arrangements to this mix (assuming that affordable child care were available), renders the feasibility for paid work for parents with disability even more remote.

An inflexible and unreliable service system also impacts on the balance of paid work and family responsibilities because of the lack of portability of many disability-related programs and services between or within states and territories. This necessarily restricts the movement of families reliant on these supports. While a move may be required to meet paid or unpaid work commitments, it may be impossible without the guarantee of basic support services to meet disability-related needs in a new location.⁷¹⁸

The Council further noted that:

Greater assistance to women to support them in their roles as mothers, workers, and/or 'carers' is needed. This includes adequate, accessible, available, affordable and flexible child care. This also includes similarly structured disability-related services.⁷¹⁹

Recommendation 38:

That Australian early childhood education and care services be required to comply with Disability Standards for Education 2005 as a prerequisite for federal funding such as Child Care Benefit (CCB).

7.7 Integration of child care and early childhood education

Submissions to HREOC supported the need for better integration of child care and early childhood education, with a national, shared approach based around accessible quality care. Business and Professional Women Australia wrote:

Child care and schooling provision needs to be changed to recognise that both schooling education and child care are intrinsically linked and should work in partnerships at local levels.⁷²⁰

717 Australian Government Department of Families Community Services and Indigenous Affairs Child Care Inclusion and Professional Support Program at www.facsia.gov.au/internet/facsinternet.nsf/childcare/services-ipsp.

718 Disability Council of NSW, Submission 76, pp 3-4.

719 *ibid*, p 5.

720 Business and Professional Women Australia, Submission 109, p 2.

In June 2005, 257 100 Australian children aged zero to five years attended preschools, the majority (76 per cent) of whom were four years old.⁷²¹ It should also be noted that many children access preschool education through CCB approved long day care centres, particularly in those States and Territories where preschool is not widely available such as NSW. It is difficult to assess how many children in long day care are participating in preschool education programs but as a rough estimate, 92 200 four and five year olds attend long day care, although there is no obligation on centres to hire qualified early childhood teachers in all centres or provide a formal preschool program.⁷²²

Funding of preschools is a State and Territory responsibility, however where a child is in a long day care preschool program parents can receive CCB and preschools can also seek registered care status, allowing parents who are working or looking for work, studying or training to access the minimum rate of CCB.

Few children attend preschool on a full time basis with the majority attending two or three days per week (37 and 33 per cent respectively), with less than seven per cent attending five days per week. Hours of operation for preschools are much more limited than many other forms of care for children of this age and of all children attending preschool, only eight per cent attended preschool for twenty hours or more per week.⁷²³

This has significant implications for parents trying to balance their child care commitments with their paid work – in families with children attending preschool only nine per cent of couple families and less than two per cent of sole parents with preschool children were employed full time.⁷²⁴

There is clear evidence supporting the short and long term benefits of high quality preschool programs for children, particularly in respect of educational progress, labour market outcomes, welfare dependency and decreases in anti-social behaviour.⁷²⁵ Many organisations support an integrated system of child care and early childhood education because of its benefits for children as well as its benefits for parents balancing their paid work and family/carer responsibilities.⁷²⁶

Longitudinal studies have shown that early childhood education is linked with positive outcomes for children's development, including improving cognitive development and social behaviour such as independence, cooperation and relationships with other children. By contrast, children with limited or no preschool experience have poorer

721 ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 39.

722 Australian Government Department of Families, Community Services and Indigenous Affairs 2004 *Australian Government Census of Child Care Services* FaCSIA Canberra, p 32 and 54.

723 ABS *Child Care Australia June 2005* Cat No 4402.0 May 2006, p 40.

724 *ibid*, p 41. Note: ABS data show that 1.7 per cent preschool parents were sole parents and were employed full time – this estimate has a relative standard error of 25-50 per cent and should be used with caution.

725 A recent report by Tony Vinson *The Education and Care of Our Children: Good beginnings* University of Sydney 2006 cites a range of international longitudinal studies demonstrating substantial and favourable long term results from preschool education (p 4) including: Lynne Karoly, Rebecca Kilburn and Jill Cannon *Early Childhood Interventions Proven Results, Future Promise* RAND Corporation Santa Monica March 2005; and Lawrence J Schweinhart "Summary, Conclusions, and Frequently Asked Questions" in *Lifetime Effects: The high/scope perry preschool study through age 40* High/Scope Press 2005.

726 See, for example, Kathy Walker *National Pre-School Education Inquiry: "For all our children"* Australian Education Union Victoria 2004; Michaela Kroneman *The Western Australian Model of Preschool Education* Australian Education Union Victoria 2001; OECD Country Note *Early Childhood in Australia*, November 2001; and ACOSS *Fair Start: 10-point plan for early childhood education and care* ACOSS Info 383 February 2006.

cognitive development, sociability and concentration when they begin school.⁷²⁷ These differences exist even after taking account of different child, family and environmental characteristics, with children from disadvantaged backgrounds receiving particular benefits from early childhood education. Australian longitudinal research has shown that attendance in child care with an educational focus is associated with higher learning scores.⁷²⁸ Integrated care, that is, where education is combined with child care, promotes better outcomes for children according to a recent UK longitudinal study.⁷²⁹

While responsibility for preschool remains with the States and Territories, the Australian Government has identified the need for “access for all children to quality early learning experiences, especially in the year before formal school entry” which can assist in a “successful transition to school for all children, but especially those children from disadvantaged backgrounds, a more coherent approach to care, education and family support and earlier identification of children at risk of developmental or behavioural problems”.⁷³⁰

However, the availability of preschool education remains patchy across Australia, both from a geographic perspective and in terms of the socio-economic circumstances of families who are able to access preschool services and, as a result, concerns continue about the equity of current arrangements for preschool education. Provision of public preschool education varies widely across States and Territories and as a result not all children have equal access to the good start in life that early childhood education provides.⁷³¹ Parents who cannot access public preschools or afford private preschools must rely on their various other child care arrangements, including informal care or long day care, which may or may not incorporate elements of preschool programs.

Preschool participation tends to increase in line with household income ranging from 49 per cent of four year olds in households in the lowest income group to 66 per cent of households in the highest.⁷³² The ABS has also noted that Indigenous children were less likely to be attending preschool as were children from non-English speaking backgrounds.⁷³³ Preschool participation rates also vary according to where children

727 See, for example, Kathy Sylva, Edward Melhuish, Pam Sammons, Iram Siraj-Blatchford, Brenda Taggart and Karen Elliot *The Effective Provision of Pre-School Education (EPPE) Project: Findings from the pre-school period Summary findings* Institute of Education University of London 2003; Bridie Raban *Just the Beginning...* Research Evaluation Branch International Analysis and Evaluation Division Department of Education, Training and Youth Affairs December 2000; and *Growing Up In Australia: The longitudinal study of Australian children 2004 Annual Report* Australian Institute of Family Studies Melbourne 2005, p 19.

728 *Growing Up In Australia: The longitudinal study of Australian children 2004 Annual report* Australian Institute of Family Studies Melbourne 2005, p 19.

729 Kathy Sylva, Edward Melhuish, Pam Sammons, Iram Siraj-Blatchford, Brenda Taggart and Karen Elliot *The Effective Provision of Pre-School Education (EPPE) Project: Findings from the pre-school period Summary findings* Institute of Education, University of London, 2003, p 2.

730 Commonwealth Task Force on Child Development, Health and Wellbeing *Towards the Development of a National Agenda for Early Childhood Consultation Paper* Commonwealth of Australia Canberra 2003, p 6.

731 This appears to be particularly the case for children with specific needs, children from culturally and linguistically diverse backgrounds and Indigenous children. See Kathy Walker *National Pre-School Education Inquiry: 'For all our children'* Australian Education Union Victoria 2004, p10. The recent Productivity Commission report also demonstrates the wide variation in provision: Productivity Commission Steering Committee for the Review of Government Service Provision *Report on Government Services 2006* Australian Government Canberra, p 14.12.

732 ABS *Australian Social Trends 2004* Article: Participation in Education: Attending Preschool Cat No 4102.0 June 2004, p 3.

733 45.9 per cent of Indigenous four year olds attended preschool compared to 56.9 per cent of non-Indigenous children as did 49 per cent of children who spoke a language other than English at home, compared to 57.6 per cent of children speaking English at home: ABS *Australian Social Trends 2004* Article: Participation in Education: Attending Preschool Cat No. 4102.0 June 2004, p 1.

live, with a participation rate for four year olds of 57.7 per cent in major cities falling to 42.6 per cent in very remote communities.⁷³⁴

The implications of these disparities are clear. A system which provides ECEC services in a haphazard manner may not only increase inequity between parents as carers trying to balance their paid work and family/carer responsibilities, it may further disadvantage already vulnerable children. Children who miss out on early learning experiences are more likely to fall behind in developmental milestones and be less prepared for school.

Governments have recently begun to recognise the importance of a coordinated implementation of ECEC services – a key priority identified in the February 2006 COAG agreement was increasing the proportion of children entering school with basic skills for life and learning.⁷³⁵

However, further and more concrete action must be taken. The Australian Government has recently put forward suggestions that a plan would be put to COAG to consider funding free preschool education from within existing preschools and long day care centres for all Australian four years olds, however a final proposal is yet to be publicly released.⁷³⁶

It is worth noting that Australian provision of early childhood education falls substantially behind many comparable countries – in New Zealand, the government appointed a working party in 1999 to develop a strategic plan for early childhood and has recently made a commitment to fund 20 hours per week of free early education for all three and four year old children by 2007.⁷³⁷

Similarly, in the UK all four year olds have been entitled to a free early education place since 1998 and from April 2004 this entitlement was extended to all three year olds. The introduction of a comprehensive national child care strategy in 2004, in combination with the Sure Start program targeting disadvantaged children, has seen 96 per cent of three year olds and all four year old children in England taking up their entitlement to free part time preschool education.⁷³⁸ The existing minimum entitlement amounts to 12.5 hours a week of free early education for all three to four year olds which increased from 33 weeks to 38 weeks from 1 April 2006, and will be extended to 15 hours a week by 2010 with a goal of 20 hours per week.⁷³⁹

734 ABS *Australian Social Trends 2004* Article: Participation in Education: Attending Preschool Cat No 4102.0 June 2004, p 2.

735 The Council of Australian Governments' Meeting 10 February 2006 *Communique* (p 3) noted: "the importance of all children having a good start to life. Opportunities to improve children's life chances, especially for children born into disadvantaged families, exist well before children begin school, and even before birth. High quality and integrated early childhood education and care services, encompassing the period from prenatal up to and including the transition to the first years of school, are critical to increasing the proportion of children entering school with the basic skills for life and learning. COAG will give priority to improving early childhood development outcomes, as a part of a collaborative national approach".

736 See for example ABC Radio "Free Preschool Plan Welcomed" PM 23 March 2006 at www.abc.net.au/pm.

737 Rt Hon Helen Clark Prime Minister of New Zealand and Hon Trevor Mallard Minister of Education *Free early childhood education to be extended* Media Statement 22 August 2005 New Zealand Labour Party Press Release.

738 Department for Education and Skills *Provision For Children Under Five Years Of Age In England: January 2006 (Provisional)* April 2006 SFR 17/2006.

739 HM Treasury, Department of Trade and Industry, Department for Work and Pensions and Department for Education and Skills *Choice for Parents, the Best Start for Children: A ten year strategy for child care* December 2004 HM Treasury London 2004, p 1.

Recommendation 39:

That the Australian Government with the cooperation of the States and Territories develop a framework for a national preschool year of education for all four year old children in Australia as a matter of urgency.

7.8 Paid work and family consequences of the cost and availability of child care

Parents clearly indicated to HREOC the ways in which child care costs and availability had had a direct impact on their and their partner's decisions to stay in the paid workforce after having children.

My wife wants to return to work when the next bub is two. But, we can not do this in Canberra with the cost and availability of child care.⁷⁴⁰

Employers, as well as employees are aware of this dilemma.

Governments should recognise that improved access of child care facilities would have a direct and identifiable impact on work and family balance. With full time child care fees, equating to a second mortgage, it is not financially viable for some women to work, particularly those in the middle income bracket or those in positions maintaining relevant skill. With adequate child-care assistance, a percentage of paid maternity leave would have little impact on women's choice to have children.⁷⁴¹

Some employers may be in a position to assist staff with child care by providing the service directly, reserving or sponsoring places in existing services or using an agency to assist employees to find care.⁷⁴²

Qualitative research also indicates that child care is important not just to families' arrangements in respect of workforce participation, but to the decision to have a child or further children. Recent research from Monash University found that around a third of families indicated that the availability, affordability and quality of child care were factors they took into consideration when deciding to have a first or subsequent child.⁷⁴³ Again, submissions to HREOC back up this research.

... if I work my current schedule of eight days a fortnight and have two children in child care for those eight days, I will add \$596 to my families' income. What really surprised me, however, was the disincentive to work eight days a fortnight, when I could halve my working time to four days a fortnight, bringing home \$436 and only lose \$160 a fortnight, or \$40 a working day, in actual cash. And honestly, what mother in her right mind could justify leaving her babies in day care for ten hours a day to bring home \$40 a day? Not this one, that is for sure. So my decision has been made for me – if I want another baby I will have to give up my career. What they forgot to tell us in school is though you may be prepared to do all the hard work to juggle a family and a career, "Having it All" just isn't economically feasible.⁷⁴⁴

740 Respondent in untitled survey on work and family balance, cited in Community and Public Sector Union, Submission 90, p 12.

741 Victorian Automobile Chamber of Commerce, Submission 179, p 6.

742 See Chapter 6 (section 6.10) for a discussion of FBT and employer provided child care.

743 JaneMaree Maher, Maryanne Dever, Jennifer Curtin and Andrew Singleton *What Women (And Men) Want* School of Political and Social Inquiry Monash University September 2004, p 14.

744 Natalie Morton, Submission 65.

A number of submissions recommended a national review of early childhood and child care funding and services in order to achieve this aim.⁷⁴⁵

The Work + Family Roundtable submission argued:

There is an urgent need to expand and improve the provision of child care for working Australian families. This includes the expansion and improvement of affordable preschool education, formal child care for 0-4 year olds and out of school care services for school aged children. The international evidence in support of quality early childhood education and care is strong and incontrovertible.⁷⁴⁶

HREOC supports this view that urgent action must be taken to address the issue of child care availability and accessibility.

Recommendation 40:

That the Australian Government with the cooperation of the States and Territories institute a comprehensive national review of early childhood education and care (ECEC) services, grounded in a commitment to children's wellbeing, with the aim of:

- **ensuring that all children can access quality programs regardless of their socio-economic circumstances, geographic location or abilities;**
 - **establishing the extent of demand for ECEC services so as to provide a better planning framework for the establishment and accreditation of children's services;**
 - **providing greater options for families for non-standard hours child care services;**
 - **ensuring that the funding formula and mode of payment most effectively reflect the needs of children; and**
 - **improving affordability for working parents.**
-

7.9 Conclusion

The provision of ECEC services in Australia is a key element of allowing working parents to balance their paid work and family/carer responsibilities. This point has been made to HREOC again and again in our consultations and in the submissions we received.

Government support and regulation of ECEC services sets the framework within which families are able to access, or not access, these services. While many parents benefit from informal care and support from family or friends, this is unavailable for many others as grandparents remain in the paid workforce for longer or live long distances away. Australian, State and Territory governments must together address outstanding issues of access and equity in the provision of ECEC services for the benefit of Australian families.

There is a clear body of evidence to support increasing government expenditure on ECEC as a cost-effective public policy intervention which not only increases parents' labour market attachment and socio-economic status, but enhances children's development, mediates against risk and improves their wellbeing.

745 Business and Professional Women Australia, Submission 109 and Work + Family Policy Roundtable, Submission 102, p 9.

746 Work + Family Policy Roundtable, Submission 102, p 9.

Chapter 8: Government Support: Care for adults and support for carers

8.1 Introduction

At some point in their lives, all Australians will be the receivers of care and the overwhelming majority will also be providers of care. This chapter discusses these care experiences across the life course, with a particular focus on care provided for older people and people with disability.

There is no scope within this report to put forward a comprehensive analysis of service delivery to people with disability and older people requiring care, but clearly these services, like early childhood education and care services, are central to supporting the balance between paid work and family life. The provision of these care and support services is an area in which governments play a key role.

This chapter outlines government support services for carers and discusses the diverse needs of working carers, including those carers with specific needs.⁷⁴⁷ It also provides an overview of the structure of care services for older people and people with disability in Australia.

Drawing on submissions and HREOC consultations, this chapter is focussed particularly on the needs of carers participating in paid work and the priority changes needed to support a framework based on the principle of shared work – valued care.⁷⁴⁸

8.2 The universal nature of care

I still think it's interesting that we talk in terms of dollar signs ... women are up at 3 am taking care of children, breastfeeding, etc ... the point I'm trying to make is that [unpaid] work is very valuable work, but it's still not counted. It's nurturing the next generation of Australians, and ... it doesn't have a dollar sign attached.⁷⁴⁹

As young children we will all be cared for by our parents and/or other formal or informal care providers,⁷⁵⁰ as we move through our lives we will all experience periods of illness or disability during which we require care and in old age most Australians will require some level of assistance to manage our lives. The vast majority of us will also experience the flip side of this caring, as we care for our own or others' children, our parents, our partners and other family members.

747 As the *Striking the Balance* discussion paper did not canvass these areas in detail, this chapter also gives an overview of formal and informal care support services. An extensive review of the many services and supports provided for carers and the recipients of care is, however, beyond the scope of this paper.

748 See Chapter 2 (section 2.3) for a discussion of the shared work – valued care approach to paid work and family/carer responsibilities. As noted in Chapter 1, the term “carer” is used to refer to a person providing unpaid care to an older family member or someone with an illness or disability.

749 Community consultation, NSW Central Coast, 4 August 2005. See also Chapter 5 (section 5.4) for a discussion of the value of care.

750 The term “formal” care refers to paid care arrangements, while “informal” care refers to the unpaid care provided by family and other informal carers. The term “aged care” refers to formal care programs and facilities for older people while “elder care” is intended to encompass other informal care and assistance provided to older people.

For a range of people in the community, it is also likely that they will be simultaneously providing care for others and relying on some form of care and support themselves. For example, close to 40 per cent of primary carers⁷⁵¹ report that they have some kind of disability⁷⁵² and may access services such as personal care themselves while also caring for their children. A teenager may live at home under the care of his mother but provide help to his elderly grandfather. A grandmother might be providing formal substitute care for her grandchildren while also needing community support because of her own health needs. All of this care giving and receiving takes place in the context of varying degrees of labour market participation across the life cycle.

In addition to our identities at various times as informal carers and the recipients of care, many people are employed in the provision of formal care. In the 1999-2000 ABS Community Services Survey, there were approximately 114 000 people employed directly in community service delivery in nursing homes, aged care services and other residential and non-residential care services.⁷⁵³

Formal care services for adults in Australia have moved substantially towards community based care in recent years with the large scale move towards deinstitutionalisation of people with disability and the re-orientation of community care toward assisting older people to remain in their own homes.⁷⁵⁴ As the "baby boomer" cohort ages the need to facilitate choice and flexibility in aged care provision in place will also increase, particularly given the emerging preferences of this generation.⁷⁵⁵

All of these care needs and carers need to be supported if the current networks of care are to continue. As noted in one submission to HREOC:

We want our children, the elderly, the sick and disabled to be nurtured. We want to create fair conditions for the people who care for them. If we are to have a better way of life for the future, workplaces must become more humane. In addition we must rethink the economy in order to allocate care-workers a fair share of economic resources in return for their essential contribution to the community and the economy.⁷⁵⁶

751 The ABS use the term "primary carer" to refer to a person aged 15 years or over who provides the majority of the ongoing informal (unpaid) assistance to a person with disability who has a limitation in one of the core activity areas of self care, communication or mobility: ABS *Australian Social Trends 2005* Cat No 4102.0, p 39. HREOC uses this definition of the term primary carer in this chapter. As noted in Chapter 1, we use the general term "carer" to refer to a person providing any level of unpaid care to an older family member or someone with an illness or disability.

752 Compared with 21 per cent of people aged 15 years and over who weren't primary carers. The higher rate of disability among primary carers partly reflects their older age profile. Nine per cent of all primary carers had a disability with a profound or severe core activity limitation. Consistent with this, eight per cent of primary carers were receiving help with core activities, as well as giving it: ABS *Australian Social Trends 2005 Services and Assistance: Carers* Cat No 4102.0 July 2005.

753 Exact figures are not available largely because non-residential care services also include some additional groups of employees who are not care workers, including probation and parole officers, welfare counsellors and fundraisers, marriage guidance counsellors, adoption workers, and workers in family support services, thus over-estimating the number of care workers. A detailed study carried out for the Australian Council of Social Service (ACOSS) has proposed modifying the Australian New Zealand Standard Industrial Classification (ANZIC) categories for collecting this data so as to better measure the care workforce: Gabrielle Meagher and Karen Healy *Who Cares? Volume 1: A profile of care workers in Australia's community services industries* ACOSS Paper 140 June 2005, pp 22-25.

754 Michael Fine "Renewing the Social Vision of Care" (2004) 39 *Australian Journal of Social Issues* 3 pp 217-232 at p 218.

755 See Diana Olsberg and Mark Winters *Ageing in Place: Intergenerational and intrafamilial housing transfers and shifts in later life* Final report for the Australian Housing and Urban Research Institute October 2005 for a discussion of this issue.

756 Marty Grace, Mary Leahy and James Doughney, Submission 114, p 5.

While there is no doubt that the increased recognition of the work carried out by both paid and unpaid carers is timely and appropriate, one of the outcomes has been a policy focus on people requiring care only as a “burden” or “dependent”. As the NSW Disability Council has pointed out:

... identification of people with disability as workers and ‘carers’ is important, so as to not reinforce the perception that people with disability are only recipients of care and income support.⁷⁵⁷

HREOC has undertaken considerable work in this area, particularly in relation to people with disability and the right to employment. The report of the National Inquiry into Employment and Disability, *WORKability II*, produced a series of recommendations aimed at better enabling people with disability to secure and retain employment.⁷⁵⁸

As discussed in Chapter 3, human rights law is developing to better address issues such as the needs of older people and the rights of people with disability.

Along with the domestic anti-discrimination laws, Australia has an obligation to prevent and eliminate discrimination in employment that occurs on the basis of age and disability under the ILO *Convention (No 111) Concerning Discrimination in respect of Employment and Occupation*. In addition to this protection, the *Convention on the Rights of Persons with Disabilities*,⁷⁵⁹ which was adopted by the United Nations (UN) General Assembly in December 2006, prohibits all discrimination on the basis of disability.

The United Nations have also adopted a number of non-binding principles which recognise the rights and needs of older people. The UN General Assembly adopted Principles for Older People in 1991 which highlight the importance of the role of the family in providing care for older people⁷⁶⁰ and in 2002, the UN Second World Assembly on Ageing adopted the Madrid Political Declaration and International Plan of Action on Ageing (MIPAA).⁷⁶¹ MIPAA aims to improve the social and economic conditions of older people. Relevantly, it recognises “the crucial importance of families, intergenerational interdependence, solidarity and reciprocity” and “the provision of health care, support and social protection for older persons”.

Care services in Australia must be seen within the context of broader community goals that allow all individuals to participate as fully as possible in the economic, social and intellectual life of their community.⁷⁶² A shared work – valued care approach to care across the life cycle recognises the value of care work, both in a social or cultural sense and in terms of adequate remuneration for formal care. The principle of shared work – valued care encompasses proper remuneration for paid care work and the sharing of the broader costs of informal care by government as well as individuals.⁷⁶³

757 Disability Council of NSW, Submission 76, p 1.

758 See Human Rights and Equal Opportunity Commission *WORKability II: Solutions People with disability in the open workplace Final report of the National Inquiry into Employment and Disability* HREOC Sydney December 2005.

759 *Convention on the Rights of Persons with Disabilities* (not yet in force).

760 United Nations Principles for Older Persons, G.A. Res. 46/91, U.N. GAOR, 46th Sess., 74th plen. mtg., Annex 1, UN Doc. A/RES/46/91 (1991).

761 United Nations *Report of the Second World Assembly on Ageing Madrid 8-12 April 2002 A/CONF.197/9* United Nations New York 2002 pp 1-43.

762 This means ensuring that communities provide opportunities for paid work and care for all through appropriate and flexible personal care services, accessible transport and built environments, protection from discrimination and family-friendly workplace arrangements.

763 See also discussion in Chapter 2 (section 2.3).

8.3 Support for carers combining paid work and caring

More than one in eight Australians (2.6 million people) provides informal care to a person who needs assistance due to disability, chronic illness or old age.⁷⁶⁴ It is estimated that these informal carers provided approximately 1.2 billion hours of care in 2005 at an estimated replacement value of \$30.5 billion. Almost half a million of these people are primary carers.

Three quarters of carers are of workforce age. Carers are more likely to be unemployed or not participating in paid work than those who are not carers.⁷⁶⁵ Fifty six per cent of all carers are employed on a full or part time basis or are looking for work, compared to 68 per cent of non-carers. Primary carers have a significantly lower labour force participation rate at only 39 per cent.⁷⁶⁶

It is notable that the rate of full time work among primary carers is less than half of the general population at only 19 per cent with non primary carers (37 per cent) also lower than the Australian average of 42 per cent. There is evidence that some carers would return to the workforce but for their caring obligations, with around a third (36 per cent) of primary carers indicating a desire to return to work, particularly part time.⁷⁶⁷

The Australian Women's Coalition told HREOC it is clear that sandwich generation women (those caring for older and younger family members at the same time) and older women carers are in need of practical, family-based support and care for themselves, and that these needs would best be met via a combination of strategies/initiatives including:

- providing carers with more opportunities to be listened to and acknowledged for their caring roles both within families and outside of their families;
- educating families and communities about the demands of caring and spreading the caring responsibilities and duties more equitably within families;
- building the capacity of families and communities to more adequately and equitably cater for family caring responsibilities;
- providing families with more diverse types of 'time out' options (including appropriate community based activities) on a regular (up to daily) basis so that carers can have regular, amounts of 'normal' time out;
- providing more domestic help for carers tailored to their particular family needs;
- providing more services to carers where they are based – i.e., in their homes and immediate neighbourhoods and not in 'widespread' or 'distant' community centres;
- increasing the financial assistance made available to carers and increasing the number of services for carers;
- providing greater assistance with transport for family/extended family members being cared for; and

764 Access Economics *The Economic Value of Informal Care* Report for Carers Australia August 2005, p i.

765 ABS *Disability, Ageing and Carers, Australia 2003* Cat No 4430.0 September 2004, p 49 and p 51.

766 Access Economics *The Economic Value of Informal Care* Report for Carers Australia August 2005, p 10. See also Carers Australia, Submission 60, p 4 and Anna Chapman, Submission 83, p 9. See also the *Striking the Balance* discussion paper (Chapter 4).

767 Access Economics *The Economic Value of Informal Care* Report for Carers Australia August 2005 p 11 and p 12. See also the Taskforce on Care Costs (ToCC) *Where to Now 2006 Final Report* 18 October 2006.

- providing a greater range of appropriate community activities/ services that both the person(s) being cared for and the carer(s) are happy for the persons(s) being cared for to attend on a regular basis.⁷⁶⁸

Support services aimed specifically at carers have increased significantly in recent years. The Australian Government now funds the Commonwealth Carer Resource Centres (which provide advice, counselling and referral for carers) and Commonwealth Carer Respite Centres (which provide carers with information about a range of respite options and assistance to obtain respite). Commonwealth Carelink Centres also provide free information to carers about community, aged care, disability, Home and Community Care (HACC) and other support services.⁷⁶⁹ The National Respite for Carers Program has resource centres in each capital city which are designed to act as a single point of contact for carers to obtain information and access to relevant services.

These services can help maintain family relationships, provide necessary breaks as well as supporting time together, relieve carer burnout and associated physical and mental health consequences and assist people with illness or disability to have an improved quality of life and better participate in their community.⁷⁷⁰

While Governments have also developed a range of initiatives in recent times to support working carers of older people and people with disability,⁷⁷¹ this is a key area in which further specific research and policy development is required. For example, while the Australian Government has committed up to \$65 million to employed carers of older people for respite services over the next four years, Carers Australia has pointed out that support services, particularly respite care, remain a key issue for many families, especially for older carers and sole parents.⁷⁷²

Changes have also been made to the financial assistance provided to carers in recent years through the Carer Payment and Carer Allowance with the aim of assisting carers to better combine paid work and caring. These include extending the number of hours that carers may spend in employment, voluntary work or training from 10 to 25 per week without affecting their Carer Payment and increasing the number of days that carers can spend away from caring up to 63 for recipients of Carer Payment or Allowance.

Carers Australia told HREOC that:

In the 2005-06 federal Budget, the Government announced funding of \$95.5 million over four years to enable day respite centres to extend their hours of operation, giving an estimated 5,000 employed carers each access to 480 extra hours of respite per year ... It is a welcome move that will hopefully provide carers with some new options in alternative care. However as it is for respite care and appears to be for a limited number of hours, it would not be expected to be a main source of alternative formal care. Rather, regular permanent arrangements are needed over extended hours.⁷⁷³

768 Elizabeth Bennett *The Caring Sandwich: Caring for the young and old – The price women pay* Research Project Report 2005 cited in Australian Women's Coalition, Submission 129.

769 Australian Government Department of Health and Ageing *National Respite for Carers Program (NRCP) and other Australian Government Support for Carers* Information sheet No 5 September 2006, pp 1-2.

770 See Enduring Solutions *Sustaining Caring Relationships Final Report of the Met and Unmet Needs in Respite Care Project* ACT Health June 2003, p 5.

771 See Australian Government Department of Health and Ageing *National Respite for Carers Program (NRCP) and other Australian Government support for carers* Information sheet No 5 September 2006 pp 1-2 and the Working Carers Support Gateway project www.workingcarers.org.au, which is funded by the NSW Health Carers Program.

772 Carers Australia *Carers' National News* Issue 9 March 2006, p 5.

773 Carers Australia, Submission 60, pp 6-7.

The Queensland Government highlighted to HREOC that:

Flexible respite care and information services are required to enable carers to participate in work and family life. The Commonwealth government has a responsibility to provide sufficient support for carers wanting to combine work and family.⁷⁷⁴

Better support is needed to assist carers to manage their caring responsibilities and in particular to combine paid work and caring.

Recommendation 41:

That State and Territory governments, with cooperation with the Australian Government, develop state specific internet based resources (modelled on the NSW Government's Working Carers Support Gateway) in addition to an advisory service linked to existing infrastructure to inform working carers about their rights and provide greater information about support services and entitlements.

Some types of care produce present challenges for carers. The community based organisation Palliative Care Australia has stressed that carers of people with a terminal illness often experience difficulties in maintaining employment and are forced to give up work and rely on government assistance.⁷⁷⁵ Carers in one study indicated the need for strong support for flexibility and understanding in workplaces, including making all sick leave entitlements available as carers leave in such situations.⁷⁷⁶ This study also highlighted the need for further information to better identify the needs of specific groups of carers.⁷⁷⁷

Support for working carers is important at the workplace level from both management and colleagues. HREOC was told about a variety of different ways in which workplaces could be more supportive of carers. The Working Carers Support Gateway and Carers Australia submissions commented extensively on this issue:

A number of carers talked about the benefits of formal or informal debriefing, counselling or professional supervision at work. One carer, who worked at a human service organisation where staff had stressful jobs, had access to counselling that was paid for by her employer. As she didn't feel she needed it she was able to trade it in for massages, which were 'a great stress relief'. Others felt that they didn't want work troubles to intrude on their already difficult home lives. They made arrangements to debrief on their day at work with colleagues, friends or supervisors so they could leave their work stresses at the front door. If these provisions were available to all staff it would greatly assist working carers.⁷⁷⁸

There is a range of ways workplaces can be flexible, depend[ing] on the level of care required ... the individual needs of the care situation and the nature of paid work to be done. For example, care for a frail older family member with a degree of independence can be assisted by acceptance of the need for personal monitoring or support phone calls, extended lunch hour to allow

774 Queensland Government, Submission 166, p 25.

775 Palliative Care Australia *The Hardest Thing We Have Ever Done: The social impact of caring for terminally ill people in Australia* Palliative Care Australia 2004, p 52.

776 *ibid*, p 51.

777 *ibid*, pp 56-60. Some further research identifying barriers to carers continuing employment or re-entering the labour market is already underway in a study currently being conducted at the Social Policy Research Centre (University of New South Wales): *Negotiating Caring and Employment – the impact on carers' wellbeing*.

778 Working Carers Support Gateway, Submission 77.

meal preparation, carer leave for appointments, reduced working hours or flexitime, or work at home.⁷⁷⁹

Our working carers are concerned that their current rights, for example to take time off and make it up later, be protected. Other family-friendly provisions that are identified as important include being able to use the telephone at work, take career breaks when leave runs out, and being able to take extra paid leave for carer training and support, not just to provide care (this was particularly the case for a group of Aboriginal working carers). Working carers wanted greater promotion of family-friendly provisions and counselling around their needs so they would not feel pressure to resign because of caring responsibilities.⁷⁸⁰

8.4 Supporting the diverse needs of carers

While many of the issues that carers identify are common and experienced by many people across the spectrum of Australian families, as with parents with child care responsibilities, some groups of carers experience particular difficulties and challenges. These specific groups identified to HREOC in submissions and consultations include men with caring responsibilities,⁷⁸¹ carers with disability, grandparent carers, Indigenous carers, young carers and carers from CALD backgrounds.

Men with caring responsibilities

HREOC was told that:

The prevailing social culture dominates the workplace re-enforcing the 'women as carers, men as bread winners' stereotype further limiting male carers from accessing workplace flexibility provisions.⁷⁸²

A number of studies have identified the issues for male carers as distinct from carers more broadly. Slightly less than half of all carers are men, while men account for slightly less than a third of primary carers.⁷⁸³ If sharing care more equally becomes more of a norm in future, as discussed in Chapter 5 in relation to child care, it is likely that men's share of elder care and care for people with disability will also increase, as will the need for appropriate supports.

Male carers also have a different profile to female carers in relation to their age and the people for whom they are caring. Men are more likely to be the carer of their spouse, less likely to be the carer of a parent or child and tend to be older than women carers.⁷⁸⁴ About half of male primary carers are not in the labour force, which is partly a result of their profile, but when they are, they are more likely to be in full time work than female primary carers or to be looking for full time work.⁷⁸⁵

A number of submissions to HREOC highlighted this need for caring supports for both men and women.

I believe a 'changed mindset' towards ageing and the needs of the aged ought to apply to both men and women and also employers. The stress on a family

779 Carers Australia, Submission 60, pp 7-8.

780 Working Carers Support Gateway, Submission 77.

781 Issues for women undertaking caring responsibilities are discussed at length in the *Striking the Balance* discussion paper at pp 26-37, 39-46, 51-59, 62-74.

782 Working Carers Support Gateway, Submission 77.

783 46 per cent of all carers and 29 per cent of primary carers are men: ABS *Disability, Ageing and Carers, Australia 2003* Cat No 4430.0 September 2004, p 3.

784 ABS *Disability, Ageing and Carers, Australia 2003* Cat No 4430.0 September 2004, p 49 and p 55.

785 Australian Institute of Health and Welfare *Carers in Australia: Assisting frail older people and people with a disability* AIHW Canberra 2004.

caring for an aged parent is traumatic, it usually now comes at a time when the family carer is not as active, fit or healthy as they were when younger. Currently it comes at a time when men and women are nearing the end of their working life or looking forward to a relaxed retirement, after they have brought up their own family and finished their working life. Caring can also divide families.⁷⁸⁶

Crucially, there should be an expectation that caring for children, the aged and infirm, for friends and relatives in times of need, is the responsibility of men and women equally. As long as this responsibility falls primarily to women they are vulnerable to being discriminated against at work, and constrained in their employment choices and opportunities.⁷⁸⁷

A recent study on male carers conducted by Carers NSW identifies that men have different patterns of caring to women – male carers continue to do more of the traditionally male tasks such as home maintenance, gardening and heavy lifting, with more personal care, assistance and communication carried out by women. It is interesting to note that men report doing as much meal preparation and more housework than women, although the study suggest that this may perhaps be partly explained by women not reporting as caring tasks those activities which they have always carried out in the home. These findings, based on the ABS Survey of Disability, Ageing and Carers, are also reflected in FACSIA data on recipients of Carer Allowance – this payment is available to carers providing high level personal care, is not income tested and only 18 per cent of recipients are men.⁷⁸⁸

The Carers NSW study found that many of the issues facing men and women carers were the same, such as the impact of caring on physical and mental health, feeling able to cope with changes that have occurred in their lives, having sufficient contact with other people (especially other carers), the usefulness of formal services (in particular carer support services and respite services) and the impact of community attitudes. However, the study also found that a number of men were socially isolated, had inadequate social support, were using destructive coping mechanisms (particularly alcohol) or had poor mental health. Carers' groups, particularly ones specifically targeted towards men, were seen as being a very beneficial form of support for male carers.

Submissions to HREOC also backed up many of these findings:

In my experience and discussions with other men I have found there to be pressure exerted upon men who have wished to change their employment arrangements to make them more family friendly. There seems to be some suspicion if you are a man and wish to work part time to balance your other responsibilities.⁷⁸⁹

The Working Carers Support Gateway argued that carers cannot always access time off during the day to provide care for older relatives. A male carer consulted by the Working Carers Support Gateway noted:

The women in the office get to take time off if they need to. But my boss would have to be fined by an inspector, like for Workcover, before he would give time off to the blokes driving the vans.⁷⁹⁰

786 Beverley Puls, Submission 12, p 2.

787 Australian Capital Territory Human Rights Office, Northern Territory Anti-Discrimination Commission, Anti-Discrimination Commission Queensland, Equal Opportunity Commission Western Australia and Equal Opportunity Commission of South Australia, Submission 117, p 21.

788 Toni Payne and Michael Keats *The Social and Emotional Circumstances of Male Carers* Carers New South Wales July 2005, p 13.

789 David Wilkes, Submission 68.

790 Working Carers Support Gateway, Submission 77.

Carers with disability

As noted in previous chapters, people with disability who are also carers, frequently women, face particular difficulties accessing the support they need to undertake combined paid work and care roles.

As highlighted by the Disability Council of NSW, the issues that apply to women as carers:

... clearly also apply to women with disability. However, it is important to acknowledge that the inequities and barriers that exist for women in the workplace are exacerbated for women with disability. This is because the circumstances of women with disability are further complicated when their disability-related needs are not recognized and/or not met.⁷⁹¹

Like other carers, the majority of carers with disability are women.⁷⁹² However, little attention has been paid to the needs of people with disability who are balancing paid employment with family/carer responsibilities, a situation which is compounded by the dearth of data which identifies these needs.

Despite the diversity of people with disability there is a lack of research on people with disability except in relation to welfare, health care and disability support services. In addition, much of the data are not disaggregated in terms of gender, race or other demographic factors.⁷⁹³ This presents a very homogenous and narrow picture of people with disability. The limited amount of gender disaggregated data in relation to disability and work, and the limited amount of disability disaggregated data in relation to women and work makes it difficult to form a comprehensive analysis of, or adequately respond to, the issues and concerns of women with disability.⁷⁹⁴

The Disability Council of NSW have highlighted to HREOC a number of barriers for women with disability who try to enter paid employment and note that these systemic barriers necessarily impact on the capacity of women with disability to balance paid work and family/carer responsibilities. People with Disability highlighted:

[t]he significant time and energy [involved] in trying to get services, dealing with services and planning for the future for the person with disability leaves little left for undertaking paid work. This is particularly the case for women with disability who may also use more time and energy because of the nature of their impairment or condition.⁷⁹⁵

The general lack of understanding of disability in society, together with a lack of money, education, transport and access to the built environment combine with insecure housing, lack of confidence and cost of equipment to make employment a fairly remote possibility.⁷⁹⁶

These issues were considered in detail in HREOC's National Inquiry into Employment and Disability which recommended, among a range of other things, increased funding, improved coordination and streamlined access to personal assistance at home and in the workplace for people with disability participating in all kinds of employment, with a view to ensuring the personal care necessary to meet employment or study obligations.⁷⁹⁷

791 Disability Council of NSW Submission 76, p 2.

792 People with Disability Australia, Submission 104, pp 5-6.

793 See also Chapter 1 (section 1.5) for further discussion of gaps in data collection.

794 People with Disability Australia, Submission 104, p 3.

795 *ibid*, p 6.

796 Disability Council of NSW, Submission 76, pp 2-3.

797 Human Rights and Equal Opportunity Commission *WORKability II: Solutions People with disability in the open workplace Final report of the National Inquiry into Employment and Disability* HREOC Sydney December 2005, p 69.

People with Disability Australia also highlighted that:

Among people with disability there is a range of diversity in terms of type of impairment or condition, the role or roles assumed in families – parent, breadwinner, carer etc – and the types of families they belong to – sole parent families, step-families, same-sex couple families etc. People with disability are also diverse in their sexuality, gender, religion, age and ethnic, cultural and linguistic background as well as a range of other factors.⁷⁹⁸

One approach to better supporting both the systemic and the individual needs of people with disability who are balancing paid work and family/carer responsibilities is that suggested by the Disability Council of NSW who stressed to HREOC that the best response that workplaces can take to carers with disability is to establish:

flexible arrangements in the workplace to meet individual needs. Employers must be encouraged to consider flexible arrangements to meet the needs of men and women, people with children still in their care, people caring for elderly relatives, people with disability-related needs etc.⁷⁹⁹

This is also a theme which has been highlighted in HREOC's National Inquiry into Employment and Disability. The kind of flexibilities which assist workers with family care responsibilities are often the same as, or very similar to, the kinds of flexibilities which may be required by people with disability in the workplace.⁸⁰⁰

As part of the Welfare to Work reforms, and in response to one of the recommendations from HREOC's National Inquiry into Employment and Disability, the Australian Government has developed a one-stop information shop for matters relating to the employment of people with disability. JobAccess is an free online resource and telephone advice service for people with disability, co-workers of people with disability, employers and providers of Australian Government Employment Services.⁸⁰¹ HREOC acknowledges this initiative and encourages the Australian Government to further implement the recommendations of the National Inquiry into Employment and Disability through their disability employment strategy.

Recommendation 42:

That the Australian Government and other identified agencies work to further implement the recommendations from the HREOC National Inquiry into Employment and Disability, *WORKability II*, to better enable carers with disability to secure and retain employment.

Grandparent carers of children

In 2003, there were 22 500 Australian families in which the grandparents were the guardians of their grandchildren.⁸⁰² These grandparents are not providing child care, but are primary carers for extended periods. The Women Lawyers Association of NSW indicated to HREOC that:

Increasing numbers of grandparents have full time care of their grandchildren with Family Court orders in place or a care and protection order through

798 People with Disability Australia, Submission 104, p 2.

799 Disability Council of NSW, Submission 76, pp 5-6.

800 See Human Rights and Equal Opportunity Commission *WORKability II: Solutions People with disability in the open workplace Final report of the National Inquiry into Employment and Disability* HREOC Sydney December 2005, in particular p 130.

801 For information on JobAccess see www.jobaccess.gov.au/joac/home.

802 ABS *Australian Social Trends 2005* "Family Functioning: Grandparents Raising Their Grandchildren" Cat No 4102.0 July 2005, p 44.

the Children's Court. The cost of going through the court system while maintaining employment and providing care for their grandchildren is one issue that needs to be addressed.⁸⁰³

Gaps in provision have emerged with submissions to HREOC highlighting ongoing areas of concern.

Grandparents providing full-time care for grandchildren have identified the need for respite, particularly during school holidays when the grandchildren are at home all day. Financial hardship and poor health of grandparent carers can exacerbate the stress associated with full-time caring during school holidays, putting grandparents at risk of carer burnout and social isolation.⁸⁰⁴

A study carried out by COTA National Seniors in 2003 found that many grandparent carers felt let down by Government authorities because they had often taken in their grandchildren at the request of State and Territory authorities and subsequently got little support or recognition in their care for often traumatized children. The study found that in most states foster and kinship care payments were restricted to children for whom formal care and protection orders were made by a court and Commonwealth benefits such as family tax benefits and Centrelink payments are means tested, which presented severe financial difficulties for many grandparents, particularly those who had been planning to be self-funded retirees.⁸⁰⁵ Concerns about financial difficulties were echoed in submissions to HREOC.

It is recognised by stakeholders that grandparents raising their grandchildren are often unaware of their entitlements or how to access support services. Financial support for grandparents raising grandchildren is a Commonwealth responsibility.⁸⁰⁶

Some grandparents are forced back into the workforce to earn extra money to support the children they are raising and others are forced out of work in order to care for the children.⁸⁰⁷

A submission from the Queensland Government also raised the issue of other support services, particularly respite care, for grandparent carers.

Flexible respite care responsive to the needs of the carers is required to enable carers to participate in work and community life. Respite care particularly for grandparents who are raising children has been identified by stakeholders as a priority need.⁸⁰⁸

There is a strong demand from grandparents who are raising their grandchildren for information services. Grandparents often need to update their parenting skills. They may also need assistance to access information about child care and to interface with the school system. In addition to financial hardships of grandparents raising children, many require support with parenting skills and accessing community services.⁸⁰⁹

803 Women Lawyers Association of NSW Inc, Submission 112, p 4.

804 Queensland Government, Submission 166, p 23.

805 COTA National Seniors *Grandparents Raising Grandchildren* Report commissioned by the Hon Larry Anthony Minister for Children and Youth Affairs FACS Commonwealth of Australia Canberra July 2003, p 7.

806 Queensland Government, Submission 166, p 23. It should be noted that support for children and young people in out-of-home care is primarily a responsibility of State and Territory governments and each jurisdiction has its own legislation, policies and practise in relation to foster care and foster payments. All eligible carers, including grandparents raising grandchildren, are able to access relevant Australian Government benefits and payments providing they have ongoing, day-to-day care and responsibility for the child or young person.

807 Queensland Government, Submission 166, p 23.

808 *ibid.*

809 *ibid.*

The COTA National Seniors report put forward a range of recommendations to better support grandparent carers. These included Australian and State and Territory Governments better informing grandparents of their rights to income support, treating them equally to foster carers, recognising the extra emotional and psychological needs of the children, increasing respite care for grandparents, addressing the legal issues faced by grandparent carers and developing specialist parenting programs, community education campaigns and grandparent support groups.

Over the past three years the Australian Government has introduced a number of specific measures to better support grandparents who have primary care of their grandchildren. In addition, the Australian, State and Territory Governments have been working collaboratively through the Community and Disability Ministers' Conference to consider the needs of grandparent and relative carers generally. However, it is clear from the issues raised with HREOC there are still outstanding issues with respect to grandparent carers.

Indigenous grandparent carers can face particular issues and a significant proportion of Aboriginal and Torres Strait Islander grandparents provide care for grandchildren (see below for further discussion of issues facing Indigenous carers). While some community organisations have established programs to specifically assist Indigenous grandparents, a recent Australian audit of research on out-of-home care recommended that research into best practice for Indigenous children and young people in out-of-home care is a key priority area.⁸¹⁰

Young carers

Young carers face specific challenges, particularly in terms of completing schooling and securing and retaining paid employment.

It is estimated that there are around 388 800 carers in Australia under the age of 25.⁸¹¹ A recent study of young carers in the ACT identified that young carers still at school often miss school, or their attendance is disrupted due to their caring role, leading many to leave school prematurely. Not surprisingly this can make employment difficult to obtain. Most young carers live in families experiencing financial hardship and many do not access financial support in the form of a Carer Allowance or Carer Payment.⁸¹²

A research project into the needs of young carers indicates that approximately 60 per cent of young primary carers between 15-25 years are unemployed or not in the labour force (compared to 38 per cent for the general population in this age group). Only four per cent of young primary carers aged 15-25 years are still at school (compared to 23 per cent for the general population in this age group).⁸¹³

Retaining employment can be particularly difficult due to lack of awareness of issues facing young carers. A submission from People with Disability Australia noted that

There is often added responsibility placed on siblings to take on some caring responsibilities, which impacts on the stresses of the whole family. This is likely to affect employers' perceptions about the work capacity of carers, particularly carers with disability.⁸¹⁴

810 Judy Cashmore and Frank Ainsworth *Audit of Australian Outside-Home Care Research* Child and Family Welfare Association of Australia Association of Children's Welfare Agencies Inc October 2004, p 11.

811 Tim Moore Reading *Between the Lines: Listening to children and young people about their experiences of young caring in the ACT* Youth Coalition of the ACT ACT Department of Disability, Housing and Community Services 2005, p 14.

812 *ibid*, p 6.

813 Debbie Noble-Carr *Young Carers Research Project: Final Report* Carers Australia for the Australian Government Department of Family and Community Services September 2001, p 12.

814 People with Disability Australia, Submission 104, p 6.

In terms of the ability of young carers to strike a better balance between paid work, study and their family/carer responsibilities, the most significant needs of young carers have been identified as:

- the provision of information about their rights and services available;
- schools which are more understanding and provide greater options for young carers to reach their full potential (including better linkages with community support services and parents;
- promoting more supportive environments;
- homework assistance programs;
- career counselling that is tailored to their situation;
- provision for out-of-school learning and assessment;
- provision for leave or time-out from school without penalty;
- more flexible timetabling and scholarship programs);
- flexible work environments and targeted transition to work and return to work programs;
- provision of regular, flexible and coordinated respite; and
- services focusing on young carers from CALD backgrounds, including Indigenous Australians.⁸¹⁵

The Australian Government has recently attempted to address one of the key issues for young carers by providing funding to respite services and information, referral and advice services to target young carers at risk of leaving education prematurely.

Indigenous carers

A number of submissions specifically raised with HREOC the needs of Indigenous carers.⁸¹⁶ Work by carers' advocacy organisations and Indigenous organisations has also highlighted the particular needs of Indigenous carers.

There are around 51 600 Indigenous carers in Australia, accounting for around two per cent of carers in Australia and 12 per cent of Indigenous Australians.⁸¹⁷

Work carried out by Carers Victoria indicates that very few Indigenous people identify as carers, however many have significant care responsibilities. Most are women and they are of all ages. Most care for more than one person, often for three or four generations of family members with care needs.⁸¹⁸

Many Indigenous carers also carry a degree of fear and mistrust of mainstream services and most are not linked to carer support services.⁸¹⁹

Many carer organisations across Australia have attempted to address these needs by offering specialist support for Indigenous carers though specialist support staff who

815 Debbie Noble-Carr *Young Carers Research Project: Final Report* Carers Australia for the Australian Government Department of Family and Community Services September 2001, p 13.

816 See Anna Chapman, Submission 83 and Working Carers Support Gateway, Submission 77. Many submissions, did, however, raise the issue of diversity and suggest an inclusive response that recognises this diversity. For example, see Australia Baha'i Community, Submission 91; Rebecca Fowles, Submission 37; and People with Disability Australia, Submission 104, p 2 and p 3.

817 Carers NSW *Aboriginal and Torres Strait Islander Carers* Carer Information and Statistics accessed through www.carersnsw.asn.au.

818 Roseanne Hepburn *Be With Us, Feel With Us, Act With Us: Counselling and support for Indigenous carers* Carers Victoria February 2005, p 7.

819 This fear and mistrust has been linked to the loss and grief experienced by Indigenous carers as a result of transgenerational trauma due to Australia's past history and racist policies. This point is made in *Be with Us, Feel with Us, Act with Us Counselling and support for Indigenous carers* Carers Victoria February 2005, pp 7-8.

coordinate programs like Indigenous social and support groups, counselling and assist with organising respite care.⁸²⁰ The Commonwealth Carers Resource Centre also employs an Aboriginal Carer Program Coordinator and provides a specialist carer support kit for Aboriginal and Torres Strait Islander carers.

The Working Carers Support Gateway told HREOC that:

The Federal Government's proposed new industrial relations laws were of particular concern to a group of Aboriginal working carers consulted. Concerns are broad (about the expected downward pressure on wages from a proposed shift to individual contracts, and job insecurity resulting from proposed changes to unfair dismissal laws), and specific (in relation to the proposed loss of current rights to take time off during their shift to attend to the person they are caring for, and make the time up later).⁸²¹

Carers from culturally and linguistically diverse backgrounds

Carers from CALD backgrounds often face additional issues such as:

- cultural differences leading to misinterpretation and misunderstanding;
- lack knowledge of existing culturally appropriate support services and how to access them;
- no access to translated information;
- no support from extended family (when only parts of the family are resident in Australia); and
- social isolation leading to the feeling of exhaustion.⁸²²

The Disability Council of NSW also highlighted that:

In many CALD communities women are expected to undertake the role of care-giver for their immediate and extended family. A similar role for grandparents is also expected in many CALD communities. Such expectations impact on the willingness of some members of CALD communities to access services, and in turn influence the capacity of the family members of people with disability to participate in the paid workforce.⁸²³

This was an issue also raised by the National Council of Jewish Women of Australia in their submission to HREOC:

The eldercare responsibilities of sandwich women in the NCJWA study were shaped indirectly by Jewish cultural traditions and directly by Jewish community attitudes and expectations of children's, particularly daughters', responsibilities for elderly family members, often accentuated if the elders were Holocaust survivors. External factors such as cultural and community expectations about women's intergenerational responsibilities have salience for other culturally and linguistically diverse groups in Australian society.⁸²⁴

820 For example Carers ACT Indigenous Carer Services, Carers NSW *Aboriginal and Torres Strait Islander (ATSI) program*, Carers Queensland Indigenous Carer Training Project and Carers WA runs workshops, information sessions and monthly morning teas for Aboriginal and Torres Strait Islander carers.

821 Working Carers Support Gateway, Submission 77, p 6.

822 Carers WA *Caring Across Cultures Multicultural Carer Social Support* at www.carerswa.asn.au/supportforyou/cald.asp. See also discussion in Queensland Council of Social Services Inc, Submission 62.

823 Disability Council of NSW, Submission 76, p 4.

824 National Council of Jewish Women of Australia, Submission 45, p 3.

Recommendation 43:

That the State and Territory governments develop additional specialist information resources for working carers with specific needs, in particular men, people with disability, grandparents, young carers, Indigenous carers and carers from culturally and linguistically diverse backgrounds.

8.5 Government provision of formal care for older people

Formal care services for older people who need assistance include residential aged care, respite care, day care, community care programs and, for people with disability, supported accommodation in group homes and attendant care.⁸²⁵

The Work + Family Roundtable stressed to HREOC that:

the establishment of appropriate and high quality formal caring services that are affordable and accessible to all Australian's with caring responsibilities is urgent and critical for families needing to improve their work and family regime.⁸²⁶

The HACC program is the largest program of its kind providing nearly 750 000 older people, people with disability and their carers with basic maintenance and support services including domestic assistance, home nursing, transport, meal services (centre-based and at home), home modifications and maintenance, gardening and shopping.⁸²⁷ Approximately 50 per cent of HACC clients classified as care recipients also receive assistance from a relative or friend.⁸²⁸

With increasing levels of home based care and reduced residential care, respite care has emerged as an increasingly important service area, reflected by the introduction of the National Respite for Carers Program.⁸²⁹ Respite care provides much needed support for primary carers. In addition to community-based respite services, almost half of all admissions to residential aged care facilities are for respite care.⁸³⁰

8.6 Greater availability of formal care to meet growing need

Demand for formal care for older Australians has been growing over the past decade and will continue to grow significantly. Both the formal and informal care needs of older people and people with disability are ballooning in line with Australia's ageing population.

825 Governments provide a range of other services and programs for people with disability and older people including the Veteran's Home Care program, Community Aged Care Packages (CACP) and Extended Aged Care at Home (EACH) packages, vocational rehabilitation service, income support supplements/reimbursements such as the mobility allowance and Continence Aids Assistance Scheme, Australian Hearing Service, funding for supported education, training and employment for people with disability.

826 Work + Family Roundtable, Submission 102.

827 Australian Government Department of Health and Ageing *Home and Community Care Program Minimum Data Set 2004-2005 Annual Bulletin* Australian Government Department of Health and Ageing Canberra 2006, p 5.

828 *ibid*, p 7. A range of other programs exist, such as the Community Aged Care Package Program and Community Options.

829 In 2004-2005 around 16 450 HACC clients received respite care services and a further 80 800 used centre-based day care: Australian Government Department of Health and Ageing *Home and Community Care Program Minimum Data Set 2004-2005 Annual Bulletin* Australian Government Department of Health and Ageing Canberra 2006, p 12.

830 In 2003-2004 there were 95 322 older people admitted into residential aged care facilities, nearly 44 100 for respite care: Australian Institute of Health and Welfare *Australia's Welfare 2005* AIHW Canberra 2005, p 172.

By 2021 it is projected there will be four million people aged 65 years and over⁸³¹ but it is the growth of the population aged 85 years and over that will most affect demand for and formal and informal care. Between 1997 and 2051 the proportion of people in this age group is projected to almost double as a proportion of the population aged 65 years and over (from 9.6 per cent to 18.8 per cent).⁸³²

Concern was expressed to HREOC that:

... the overall effect of the ageing population will be recourse to professional and institutional care for an increasing proportion of the elderly.⁸³³

The use of formal care services has increased significantly in recent years with relatively fewer older people remaining at home with only unpaid care.⁸³⁴ While formal care has increased, there is also increasing pressure being placed on informal carers to provide the required level of assistance, particularly when demand for services is high and in many cases waiting lists for services remain.

Slightly more than half of people aged over 60 years had a reported disability and 19 per cent had a profound or severe core-activity limitation.⁸³⁵ Older people living at home or with family most commonly require assistance with property maintenance and health care, followed by transport, housework, mobility and self-care. Informal carers provide the majority of the required assistance however 61 per cent also receive some formal assistance from health care professionals and tradespeople.⁸³⁶

The ageing of our population has important implications both for ageing carers and people needing care and requires governments to give increased attention to this area. These concerns were reflected in submissions to HREOC, particularly in regard to older carers.⁸³⁷

The rationale for the move towards community and other types of integrated care is not only based on community attitudes, preferences and recognition of the fundamental human right to dignity, a decent quality of life and social wellbeing for older people and people with disability; it is also a cost effective solution for government. Older people and their carers meet a large proportion of the cost of care which would otherwise be borne by the state. Community-based interventions are often more cost effective than institutional care.⁸³⁸

Informal care is provided for a range of reasons, such as a duty, reciprocity and love. However, informal care carries with it a cost to the carer in terms of both direct costs such as the purchase of special equipment, health services, respite care and other support services and indirect costs, in particular forgone earnings through leaving the

831 Australian Institute of Health and Welfare *Disability and ageing: Australian population patterns and implications* AIHW Canberra 2000, p xvii.

832 *ibid*, p xviii.

833 National Council of Jewish Women of Australia, Submission 45, p 4.

834 Between 1998 and 2003 the number of older people using formal care services had increased by 20 per cent: Australian Institute of Health and Welfare *Australia's Welfare 2005* AIHW Canberra 2005, p 154.

835 ABS *Disability, Ageing and Carers, Australia: Summary of Findings 2003* Cat No 4430.0 September 2004, p 3.

836 *ibid*, p 9.

837 Beverley Puls, Submission 12 and Equal Opportunity Commission Victoria, Submission 125, p 24. The needs of older carers have begun to be addressed through initiatives including a 2004–2005 federal Budget announcement of a bilateral funding offer to all states and territories for additional respite for older carers. Under these bilateral agreements, carers aged 70 years or above who are caring for their son or daughter with disability are eligible for up to four weeks of respite per year, and carers aged between 65 and 69 years who need to spend time in hospital are eligible for up to two weeks respite per year: Australian Institute of Health and Welfare *Australia's Welfare 2005* AIHW Canberra 2005, p 151.

838 Access Economics *The Economic Value of Informal Care* Report for Carers Australia August 2005, p 37.

paid workforce, reducing the hours of paid work and loss of superannuation income. The opportunity cost of this care work is estimated to be worth approximately \$4.9 billion per year.⁸³⁹

There will be a need for governments to put an increasing level of investment into community based and residential care programs in line with the projected increase in the number of families requiring these services. Carers Australia has suggested that current levels of need require not only review and streamlining of the delivery of existing community care programs but a 30 per cent funding increase to meet community demand.⁸⁴⁰ There have been some recent increases in funding in this area.⁸⁴¹

Governments have clearly responded to the need to increase services to support older people, people with disability and their carers through such initiatives as increasing residential aged care places, financial bonuses for carers, increasing assistance to the National Respite for Carers Program (particularly for working carers), and the extension of the Carer Allowance to carers who do not live with the person for whom they care. However, there is more work that could be done in this area, particularly to meet the needs of older people with disability as well as their carers. While HREOC has not made a recommendation in this area, we support further work on these issues, particularly as care needs increase in line with the ageing of the population and the ageing of the workforce.

Reviewing existing vocational training packages in the aged care and disability sectors to ensure the employees are better aware of the needs of older people with disability is another important area that warrants attention.

Another critical and related issue identified in submissions is the need for improved remuneration and clear career structures for those who are paid to provide care.⁸⁴² HREOC acknowledges that there are existing Australian Government programs that are working towards improving skills, training, recruitment and retention in the aged care industry.⁸⁴³ As with child care, improved working conditions are essential for providing high quality care services.⁸⁴⁴ A shared work – valued care approach to paid work and family/carer responsibilities must properly value the caring work that paid carers undertake by ensuring quality employment conditions.⁸⁴⁵

Recommendation 44:

That in recognition of the workforce issues facing the formal aged care and disability service sectors and the expected increases in level of demand for these services, that the Australian and State and Territory governments prioritise strategies to improve recruitment, retention, training, working conditions and remuneration of employees in these sectors.

839 *ibid*, p i. See also discussion of the value of care in Chapter 5 (section 5.4).

840 Carers Australia *Pre-Budget 2006-07 Submission* Carers Australia November 2005, p iv.

841 At 30 June 2004 there were 2 961 residential aged care services in Australia providing 156 580 places. During 2006-2007 a further 7 678 aged care places will be made available, including 4 585 residential places: Minister for Ageing Senator Santo Santoro *Thousands of new aged-care places announced* Media Release 1 May 2006.

842 Work + Family Policy Roundtable, Submission 102, p 9; Marty Grace, Mary Leahy and James Doughney, Submission 114, p 6; and Sara Charlesworth, Submission 98, pp 7-8.

843 See, for example, the "Better Skills for Better Care" and "Investing in Australia's Aged Care: More Places, Better Care" initiatives, which are administered by the Department of Health and Ageing. More information is available at <http://www.health.gov.au/internet/wcms/publishing.nsf/Content/Home>.

844 See discussion in Chapter 7.

845 See discussion of the shared work – valued care principle in Chapter 2 (section 2.3).

8.7 Specialist disability services

The Women's Electoral Lobby Australia (WEL) Australia highlighted to HREOC the importance of taking into consideration the needs of people with disability and older people into policy development in relation to the balance between paid work and family/carer responsibilities. WEL point out that many of those requiring care will both enjoy and benefit from access to those services particularly geared to their specific developmental, social and emotional needs. While these needs may often be met by family members, services are more likely to be successful if there are both choices and alternatives.⁸⁴⁶

One fifth of the Australian population is affected in some way by a disability that restricts, limits or impairs their everyday activity and which has lasted, or is likely to last, for at least six months.⁸⁴⁷ Around 60 per cent of people with disability living at home (that is, not in a residential care facility) reported needing assistance to manage a health condition or cope with the activities of everyday life.⁸⁴⁸ Of the people who needed assistance, the vast majority (79 per cent) received help from family and friends, mainly partners, parents or children and just over half received assistance from formal care services such as HACC services or volunteer home help.⁸⁴⁹

Specialist disability services in Australia are currently provided within the framework of the Commonwealth State Territory Disability Agreement (CSTDA) which sets out the arrangements for the delivery, funding and development of specialist services for people with disability. Under the Agreement, the Australian Government is responsible for planning, policy setting and management of specialised employment services. State and Territory governments are responsible for delivering supported accommodation, community support, community access and respite services, while support for print disability and advocacy is a shared responsibility between States/Territories and the Commonwealth.⁸⁵⁰

The CSTDA is based on the premise that:

... communities are enriched by the inclusion of people with disabilities and that positive assumptions about the gifts and capacities of people with disabilities, including those with high support need, are fundamental to their experience of a good life and to the development and delivery of policy, programs and services... Governments ... seek to work cooperatively to build inclusive communities where people with disabilities, their families and carers are valued and are equal participants in all aspects of life ... [and] ... Governments recognise that people with disabilities have rights equal with other members of the Australian community, and should be enabled to exercise their rights or be accorded these rights.⁸⁵¹

846 Women's Electoral Lobby Australia, Submission 115, p 3.

847 ABS *Disability, Ageing and Carers, Australia 2003* Cat No 4430.0 September 2004, p 3.

848 *ibid*, p 6.

849 *ibid*, p 7.

850 Department of Families, Community Services and Indigenous Affairs *CSTDA Fact sheet* Commonwealth of Australia 2006.

851 Department of Families, Community Services and Indigenous Affairs *Commonwealth State/Territory Disability Agreement* Department of Families, Community Affairs and Indigenous Affairs Canberra 2003, p 2.

Government expenditure on CSTDA-funded services during 2004–2005 totalled \$3.3 billion (excluding administrative costs) with the major types of services including:

- accommodation support;⁸⁵²
- community support;⁸⁵³
- community access;⁸⁵⁴
- respite services;⁸⁵⁵
- employment;⁸⁵⁶
- advocacy, information and print disability;⁸⁵⁷ and
- other services which including research and evaluation, training and development, peak disability bodies.⁸⁵⁸

Specialist disability services should be designed and delivered so that they form a key plank of a shared work – valued care approach by supporting people with disability to improve the balance between their paid work and caring responsibilities as well as supporting the needs of working carers. Services should be able to adequately respond to the diversity of paid work and care requirements of people with disability and their carers and have the flexibility to address individual consumers' needs.

Recommendation 45:

That the Australian Government in cooperation with the States and Territories undertake a review of specialist disability services to identify where gaps in service provision and delivery could be addressed so as to improve the balance between paid work and caring responsibilities for men and women workers with disability.

People with disability and their carers from CALD⁸⁵⁹ and Indigenous backgrounds often face particular difficulties in accessing specialist disability services which could

852 Services that provide accommodation to people with disability or which provide the support needed to enable a person with disability to remain in his or her existing accommodation or move to a more appropriate accommodation.

853 Services provide the support needed for a person with disability to live in a non-institutional setting (not including support with the basic needs of living such as meal preparation and dressing which are included under accommodation support).

854 Services designed to provide opportunities for people with disability to gain and use their abilities to enjoy their full potential for social independence. These are primarily aimed at people who do not attend school or who are not employed full time.

855 These provide a short-term and time-limited break for families and other voluntary caregivers of people with disability, to assist in supporting and maintaining the primary caring relationship, while providing a positive experience for the person with disability. This means there are in effect two "clients" – the carer and the person requiring care.

856 Two types of employment services exist – open employment which provides assistance in obtaining and/or retaining paid employment in the open labour market and supported employment which provides employment opportunities and assistance to people with disability to work in specialised and supported work environments.

857 Services are designed to enable people with disability to increase the control they have over their lives through the representation of their interests and views in the community. Information services provide accessible information to people with disability, their carers, families and related professionals. These services also include mutual support/self help groups – special interest groups which promote self-advocacy – and print disability, which includes alternative formats of communication for people who, by reason of their disability, are unable to access information provided in a print medium.

858 Australian Institute of Health and Welfare *Disability Support Services 2004-05* AIHW Canberra August 2006, p 5 and p 13.

859 While it is estimated that around one quarter of people with disability are from non-English speaking backgrounds, only 3.6 per cent of service consumers are from non-English speaking countries and 1.3 per cent utilised interpreters for spoken languages other than English: National Ethnic Disability Alliance *Overview of NESB-Disability Issues* Fact Sheet December 2005, p 1.

enable them to experience a better quality of life, including improving their capacity to balance paid work and family/carer responsibilities.

Indigenous people with disability, their families and communities experience some unique barriers which prevent them from accessing formal services.⁸⁶⁰ One of the reasons is the high levels of disability in Indigenous communities, with available evidence suggesting that levels of disability are between two and three times higher than in the broader Australian population.⁸⁶¹

Many Indigenous people with disability and older Aboriginal and Torres Strait Islander people needing assistance are cared for by extended family, reflecting traditional values about kinship and responsibility. However not all extended families are in a position to provide an optimal level of care due to poverty, family breakdown, substance misuse, the burden of grief and stress and a lack of knowledge about providing care and accessing support services. Data collected federally as part of the CSTDA suggests that one in three Indigenous people with disability do not use the services available to them.⁸⁶²

8.8 Conclusion

All Australians will rely on the care of others in childhood, during periods of illness or disability or in old age. The provision of this care across the life cycle is carried out by not only family members but underpinned by the existence of formal care and support services provided or funded by governments. Individuals receiving care rely enormously on the support services provided by governments, often at difficult or traumatic times of life.

Families, as the source of significant caring work, also rely on governments to support them financially and practically in their roles as carers. While caring is often carried out because of feelings of love and familial duty, governments must recognise the enormous financial and social contribution that carers provide and support them accordingly. This is particularly important given Australia's ageing population and our increasing care needs. There is clear evidence to demonstrate the cost savings to government of assisting family carers in their roles.

Australia needs a shared work – valued care approach to the care for adults which recognises the universal nature of the need for care and provides affordable and accessible support services that allow people with disability and older people to participate as fully as possible in their communities.⁸⁶³ The principle of shared work – valued care means valuing the work of paid carers by providing them with decent wages and employment conditions. It also means providing family carers with flexibility in their workplaces,⁸⁶⁴ ensuring that unpaid carers are financially supported so that their caring work does not leave them impoverished, and providing practical support and resources for the diverse range of carers.

860 Margaret O'Neill, Ellie Kirov and Neil Thomson "A Review of the Literature on Disability Services for Aboriginal and Torres Strait Islander Peoples" (2004) 4 *Australian Indigenous Health Bulletin* 4, p 1.

861 The ABS estimates suggest the level of disability among indigenous people is "perhaps at least twice as high" and the Taree study, using ABS methodology, put levels of disability at 2.5 times as high for Indigenous men and 2.9 times as high for Indigenous women: Margaret O'Neill, Ellie Kirov and Neil Thomson "A Review of the Literature on Disability Services for Aboriginal and Torres Strait Islander Peoples" (2004) 4 *Australian Indigenous Health Bulletin* 4, p 4.

862 *ibid*, pp 5-6.

863 See discussion of the shared work – valued care principle in Chapter 2 (section 2.3).

864 See discussion throughout Chapter 4.

Chapter 9: Other Issues

9.1 Introduction

The breadth of issues impacting on paid work and family/care balance meant that some concerns emerged in submissions and consultations that are beyond the scope of this report, in terms of making specific recommendations for reform. Nevertheless, they are important to include as part of the full picture of how working Australians manage their paid and unpaid commitments and to identify as issues for future work. In particular, these concerns include issues around infrastructure and the built environment.

Decisions about how to combine paid work and family and carer responsibilities are not only informed by pressures and supports within areas such as the workplace, public policies and formal and informal care arrangements. The planning and design of our cities and transport systems can also directly affect both the quality and quantity of time available for family and caring responsibilities, including engaging with friends, neighbours and community activities. Although the design of our built environment cannot create community, it can ensure that people have the places and the time to interact with their families and communities.

Many of the time pressures identified by men and women relate to spatial aspects of their lives as well the amount of paid work and care that they undertake. Long commuting times were consistently raised with HREOC as factors affecting the ability to balance paid work and family life. For people in regional and remote areas, access to transport can be difficult in the absence of public transport or access to a car. For people with disability, difficulties in combining paid work and care can be compounded by lack of access to and the high cost of transport. Elder care responsibilities can be harder to meet for adult children who have established their careers and their families a long way from their ageing parents.⁸⁶⁵ The following sections explore these issues and identify areas of planning and infrastructure that could be better developed to meet the needs of people combining paid work and care.

9.2 Transport and access to paid work and services

Commuting times have a big impact on the ability of families to balance their paid work and family/carer responsibilities. A recent Australian study has illustrated the negative effects of long hours of commuting on family and community life, noting that:

Each week over ten per cent of parents in paid employment spend more time commuting than they do with their children, travelling for between ten and 15 hours weekly to and from work but spending less time than this supervising, caring for and transporting their children.⁸⁶⁶

865 Community consultation, NSW Central Coast, 4 August 2005 and Beverly Puls, Submission 12, p 1.

866 Michael Flood and Claire Barbato *Off to Work: Commuting in Australia* Discussion paper No 78 The Australia Institute Canberra April 2005, pp viii-ix.

Long commuting times are associated with less time with children, long working hours, increased time pressure and limited time available to contribute to family and community life.⁸⁶⁷ Men spend more time travelling to and from work than women, a fact that derives from gender segregation in paid work.⁸⁶⁸

HREOC's consultations and focus groups with parents confirmed these findings.⁸⁶⁹ They also showed that long commuting times create stress for families by eating into family time and playing havoc with schedules for managing paid work and care. For many families, this means a complicated and sometimes precarious (such as in the event of illness) daily set of arrangements for sharing paid work and care. One example given to HREOC illustrates the difference within one family between commuting and working locally.

My day starts at 7, my wife and I give the kids a bath the night before, so we watch a bit of TV before school. I do the breakfast and take them to school because I work locally. My wife works in the city so she needs to leave early. My wife does the ironing of the school uniform before she leaves. By about 8.45 I take them to school and my father in law who lives next to us, he works part-time and so picks them up after school on Mondays and Tuesdays. On Wednesdays, Thursdays and Fridays the after school care bus picks them up and they are there until 6. I pick them up from there around 5.30. I give them a bath, cook dinner and put them to bed (sometimes before my wife gets home).⁸⁷⁰

For people in outer metropolitan and regional areas the long periods of commuting were both a response to a lack of local job opportunities and a result of urban sprawl.⁸⁷¹

For fathers, long commuting times add to the pressure of long working hours and create a barrier to involvement in family life. A focus group participant who works with fathers in Western Sydney noted that: "The traveling issue always comes up with our fathers".⁸⁷² Another focus group participant added:

All the fathers want to be more involved with the kids; they are trying to become more involved. They try and cut back hours if they can. I don't think anyone wants to cut hours or shifts but they want to be more involved with the kids when they are at home. Hours of transport that people have to do every day and pressure from employers to do more hours are the barriers [to greater involvement in children's lives], and that is increasing.⁸⁷³

People who commute long distances to undertake paid work, such as "fly-in, fly-out" (FIFO) workers in the mining industry, face unique challenges in balancing paid work and family/care responsibilities. HREOC has found that many of these employees experience considerable strain in their family relationships as a result of their work schedules in areas that are a long way from where their families reside.⁸⁷⁴ As one consultation participant remarked:

867 *ibid*, pp 29-32.

868 *ibid*, pp 25-26.

869 HREOC Focus group 5, February 2005 and Community consultation, NSW Central Coast, 4 August 2005.

870 HREOC Focus group 5, February 2005.

871 Community consultation, NSW Central Coast, 4 August 2005 and Premier's Council for Women (SA), Submission 96, p 13.

872 HREOC Focus group 16, January 2006.

873 *ibid*.

874 Community consultation, Kalgoorlie, 12 September 2005 and Community consultation, Darwin, 22 September 2005. However, while FIFO working presents challenges, some viewed it as a useful way of balancing paid work and family/care responsibilities and a choice that should be supported – see Anne M and Jocasta Sibbel, Submission 157.

I've moved to Perth, and fly-in fly-out has trashed my whole relationship. It trashed our relationship in that when he was away I made my own life, you do your own things, and then when he had his 4 days off or whatever and was home it just didn't work. FIFO means one parent is away for 2 weeks and the other parent has to do the whole caring role and then the partner comes back and he's like the Disney dad.⁸⁷⁵

For particular groups of parents and other caregivers, participation in the labour market is contingent on access to transport. Access to transport is a major issue for sole parents and people with disability.⁸⁷⁶ Inadequate or expensive transport was identified in submissions to HREOC as a barrier to balancing paid work and family/carer responsibilities for women with disability, including the ability to undertake any paid work.⁸⁷⁷ As a submission to HREOC's National Inquiry into Employment and Disability noted:

For many women with disabilities, access to transport may mean the difference between paid work and staying at home. Many women with disabilities need assistance to use public transport or cannot use it at all. Taxis or private cars are therefore the only alternative. These are very expensive forms of transport ... The high costs of transport also erode the economic gains to be made through having a job.⁸⁷⁸

Inaccessible transport was one of a number of barriers faced by women with disability that were mentioned to HREOC. Other barriers included an inaccessible built environment, including inaccessible employment and child care services.⁸⁷⁹

Limited access to transport can also affect the capacity of sole parents to enter into and continue paid work, according to research highlighted in a submission from the National Council of Single Mothers and Their Children.

Getting children to child care or school on public transport and then getting to workplaces, often required mothers to rouse children at dawn. Women living in non-metropolitan areas were at an even greater disadvantage due to limited services.⁸⁸⁰

9.3 Better urban planning

The planning and design of much of our urban space is a legacy of an earlier industrial economy based around commuting to highly paid nine-to-five jobs, that is, jobs traditionally undertaken by male breadwinners.⁸⁸¹ Widely separated land use does not support forms of employment that differ from this norm, such as part time or casual work and employment in the services sector. As noted in Chapter 4, these forms of work have increased in recent decades and are prevalent among women with caring responsibilities. As a consequence, the built environment is often hostile to workers with caring responsibilities due to long distances between home and paid work and long distances between the home, paid work and care facilities that enable people to

875 Community consultation, Kalgoorlie, 12 September 2005.

876 National Council of Single Mothers and Their Children, Submission 86, Attachment 1, p 10 and Women with Disabilities Australia, Submission to the Human Rights and Equal Opportunity Commission National Inquiry into Employment and Disability April 2005, p 9. See also discussion throughout Chapter 8.

877 Disability Council of New South Wales, Submission 76, p 3.

878 Women with Disabilities Australia, Submission to the Human Rights and Equal Opportunity Commission National Inquiry into Employment and Disability April 2005, p 9.

879 People with Disability Australia, Submission 104, p 6 and Disability Council of New South Wales, Submission 76, p 3.

880 National Council of Single Mothers and Their Children, Submission 86, Attachment 1, p 10.

881 See Derek Kemp "Trends in employment, work and society: Their implications for urban form" (1996) 21 *Urban Futures Journal* pp 39-45.

combine paid work and caring. A spreading of suburbs has also been accompanied by increasing car usage and a shift away from public transport.⁸⁸²

A submission from Women's Electoral Lobby Australia tracks some of the social changes that reflect and reinforce this environment and the effect they have on the capacity of people to manage paid work and care.

The corner shop has gone and trips to supermarkets require cars. Shopping malls replace local high street shopping, walking to neighbourhood facilities is often not possible and public transport still a problem ... Streets are often deserted as more people move directly from houses to cars. Children are not as likely to go to local schools so don't walk there. Even those who do use local facilities are more often driven there. Families are often scattered and not available for personal advice and support. Many women have little experience with children till they have their own as much younger siblings or relationships with siblings' children are not so common.⁸⁸³

The design of our built environment can make it more difficult for people to combine paid work and care. A submission from Bronwen Burfitt detailed research in which she investigated the effect that urban planning can have on the ability of women to combine paid work and family and carer responsibilities.⁸⁸⁴ Her study found that high housing costs, isolation and long commuting times all affect women's capacity to manage paid work and child care. Individual women participating in her research reported:

... feeling that two hours spent driving to and from work each day compromises ... quality of life ...[and, in relation to a second woman that she] ... had to relocate her work, as she found the rush back home from the city to pick up her children up from childcare was incredibly stressful.⁸⁸⁵

HREOC's focus group and consultation participants drew attention to a lack of local public services such as transport and the need for investment in local infrastructure.⁸⁸⁶ One consultation participant from a regional area stated:

What role governments can play is to ensure that, especially in places like this, basic infrastructure is in place before the development of housing and ... migration of people into these areas to reduce the isolation of people moving away from their extended families. It's time we put into place this action. Citizens can't do this, we can't place infrastructure on the ground.⁸⁸⁷

There are a number of government initiatives which contribute to work in this area. For example, in the Australian Government's "Communities for Children" program, a non-government organisation (NGO) works with service providers, families, community organisations, businesses and all levels of government to develop and implement community development strategies including for "child friendly communities". Many of these strategies are focused on consulting with families and children about improving urban planning and working with local government to implement recommendations.

882 ABS 2005 Yearbook Australia Cat No 1301.0 January 2006, pp 619-621.

883 Women's Electoral Lobby Australia, Submission 115, p 5.

884 Bronwen Burfitt, Submission 107.

885 *ibid*, p 100.

886 HREOC Focus group 10, August 2005 and Community consultation, NSW Central Coast, 4 August 2005.

887 Community consultation, NSW Central Coast, 4 August 2005.

It is often assumed that people who are unable to fit into a hostile built environment must simply adapt to it. Those who succeed are then held up as examples of individual will and effort while the rest are considered weak.⁸⁸⁸ Although some people with family/carer responsibilities have been able to negotiate within our built environment, better planning of urban space, including provision of local services and public transport would help meet the needs of more people working flexibly to accommodate their care responsibilities. For example, public transport with better off-peak services and vehicles designed to accommodate prams and wheelchairs would assist those who cannot conform to the male breadwinner norm, as well as those who cannot afford private transportation.

9.4 Supporting community life and wellbeing

Design and use of space can have a similar impact to time use and the time pressures reported by parents juggling their paid work and family/carer responsibilities.⁸⁸⁹ Local community networks of informal support and care rely on friendships with neighbours and local shopkeepers. Although friendships are often established around the workplace, long distances between work and home may mean that these relationships entrench a male breadwinner model and the separation between paid work and family life. Long commuting times and urban sprawl can erode opportunities for the development of local community relationships which can provide social and practical support for people with family and carer responsibilities. For example, as the study by Flood and Barbato notes, people who spend long times commuting have less discretionary time to spend in volunteer work.⁸⁹⁰ Time to spend in community activities is contingent upon the design of the environments in which people live and work. As noted in the *Striking the Balance* discussion paper, many public institutions, such as schools, rely on volunteer work to function effectively.⁸⁹¹ Voluntary work, including various types of “caring” work within the community, also creates broader social capital from which families and communities benefit.⁸⁹²

HREOC has heard evidence of the positive impact that strong community networks and volunteering have on local communities.

In somewhere like Kal you have more people with a greater sense of community and therefore they are more involved.⁸⁹³

The health and aged care in the home program is very successful here. The volunteers become their families.⁸⁹⁴

Despite this, the social benefits of strong community networks of support are often undervalued and overlooked. A better balance of paid work and family/carer responsibilities among men and women must include a response to the need for neighbourhood wellbeing, including building local community capacity to care for its members.

888 Colin Barnes *Disabled People in Britain and Discrimination: A case for anti-discrimination Legislation* University of Calgary Press Calgary 1991, pp 24-25.

889 See also discussion of time pressures in Chapter 2.

890 Michael Flood and Claire Barbato *Off to Work: Commuting in Australia* Discussion paper No 78 The Australia Institute Canberra April 2005, p 31.

891 See *Striking the Balance* discussion paper, p 47.

892 See discussion of the benefits of care and social capital in the *Striking the Balance* discussion paper at p 75 and pp 111-112. See also Volunteering Australia, Submission 89.

893 Community consultation, Kalgoorlie, 12 September 2005.

894 *ibid.*

9.5 Conclusion

The organisation of the built environment, including the proximity of home to work and proximity to care facilities and access to transport, affects families' ability to manage paid work and care responsibilities. For some groups of people, such as sole parents and people with disability, the built environment can create many barriers to undertaking both paid and unpaid work. To facilitate a more integrated paid work/care environment, better design and planning is needed to ensure as a minimum that transport is accessible and that the sites of paid work and care are located within reasonable distance. The organisation of the built environment can also affect local community capacity to support and care for itself and, ideally, town planning should aim to strengthen this capacity rather than weaken it.

Chapter 10: Conclusion

10.1 Introduction

The Australian community has shared many stories about women, men, work and family with HREOC over the course of this project. Time pressures in paid and unpaid work emerged as a central concern. Many families are struggling to meet the time demands of current paid work and family/carer responsibilities and this struggle has wider implications for meeting future care needs, which are likely to increase as the population ages and people engage in paid work for longer periods.⁸⁹⁵

The Australian community also clearly indicated that it values care, including care for dependents such as children, older people and care for people with disability. The caring work that sustains relationships is also highly valued, including maintaining family relationships and community networks. Valuing care in its broadest sense encompasses self care, including looking after one's own physical and psychological health.⁸⁹⁶ Time and other pressures resulting from an inadequate mix of workplace, public policy and other institutional supports work against individual capacity to provide these kinds of care.

Another strong theme which emerged from HREOC's consultations with the community was the need for genuine flexibility within workplaces to support employees balancing their paid work and their family/carer responsibilities. While many workplaces offer policies to facilitate paid work and family balance, there are many others that do not. Further, there is often a gap between workplace policies and practice, indicating a clear need for better legal, structural and cultural support for employees with family/carer responsibilities. The costs of not meeting this challenge are immense, particularly for individuals who have to downshift to poorer quality paid work in order to meet their dual responsibilities or drop out of the labour market altogether. There is also a cost for employers, particularly in industries with skills shortages, and a broader cost for the economy as a whole in terms of workforce participation and productivity.

This final paper has identified these and a range of related issues experienced throughout the Australian community. Concerns raised with HREOC were wide-ranging in their scope and the findings and recommendations in this paper reflect this broad approach. This final chapter summarises the paper's major findings and frames them in terms of the stakeholders responsible for implementing them.

10.2 Time to care

Making time to care, valuing care and flexibility in paid work and care arrangements require more than just piecemeal policy and workplace responses. As discussed throughout the body of this final paper, these and many other aspects of combining paid work and family/carer responsibilities need to be a part of a holistic framework for meeting paid work and care needs for Australian families across the life cycle.

895 See discussion in Chapter 1 and Chapter 2.

896 These categorisations of care are identified in Graeme Russell and Linda Haas *Organisational Challenges in Integrating Work and Caring* White paper National Diversity Think Tank and Diversity Council Australia, 2006, p 2.

A great deal of care and associated unpaid work, such as housework and household management, is provided within families. Because this work takes place within the privacy of the home and the context of the love, duty and reciprocity which characterise family life, care is sometimes viewed as an individual choice or preference. This view fails to take into account the contribution that care makes to our nation's social wellbeing and its support for the economy's capacity to generate productivity and prosperity. Every person who contributes to the economy through their efforts in paid work is either the recipient or the provider of care for a significant part of their lives. It is the work of care, both unpaid and paid, that underpins our economic prosperity and as such it must be incorporated into our national goals. Enabling people to both participate both in paid work and unpaid care is thus the responsibility of the range of stakeholders who depend on it. Properly valuing care means sharing the costs as well as the benefits across each of the following social participants – business, government, community and families themselves.

10.3 A new framework for meeting paid work and family/carer responsibilities

This paper has set out a new framework for meeting paid work and family/carer responsibilities in Australia. It includes and must aim to meet these three central challenges:

- responding to changes in caring needs and responsibilities across the life cycle;
- achieving equality between men and women in paid and unpaid work; and
- sharing work and valuing care.⁸⁹⁷

Building on the findings of our public consultations and submissions received, in addition to the evidence base set out in the *Striking the Balance* discussion paper, this paper has outlined a series of recommendations to support this new framework.⁸⁹⁸

10.4 Making the new framework a reality

Throughout this paper the following stakeholders have been identified as responsible for implementing a new framework for meeting the challenge of paid work and family/carer responsibilities. Each has a key role to play in supporting families to manage their dual responsibilities throughout the life course.

The role of government

Government plays a role in setting and implementing broad policy agendas and, in order to adequately support the combination of paid work with family/carer responsibilities, it must include the three elements of the framework in its policies and programs.

Welfare and tax initiatives play a key role in supporting families to combine paid work with their family/carer responsibilities and should ideally facilitate choice and equality for all types of families and their care needs. Currently not all families and paid work and family/carer needs and preferences are being met, nor is the unpaid work of caring properly recognised, particularly for those who spend large amounts of time out of paid work in order to care for family members.⁸⁹⁹ The paper makes a number of recommendations to modify, review and investigate better ways of supporting

897 See Chapter 1 and Chapter 2. The shared work – valued care principle is explained in Chapter 2 (section 2.3).

898 See p xvii for a list of this paper's recommendations.

899 See Chapter 6.

people with paid work and family/carer responsibilities through the welfare and tax systems.⁹⁰⁰

Governments also have a role in regulating the workplace and ensuring that employees with family/carer responsibilities are protected from discrimination and supported by an appropriate legislative framework.⁹⁰¹ The Australian Government has a number of national and international human rights obligations relevant to workers with family and carer responsibilities, the principles of which underpin this entire project.⁹⁰² This paper has found that the current legislative framework is not adequate for supporting employees to meet their current and future care responsibilities. It proposes the expansion of current legal frameworks to support carers by introducing:

- a Family Responsibilities and Carers' Rights Act which includes a right to request and a duty to consider flexible working arrangements;
- a national paid maternity leave scheme; and
- an extension of current Carer's Leave entitlements.⁹⁰³

While much care is provided informally within families and community networks, governments have responsibility for funding the provision of formal care. As noted throughout Chapters 7 and 8, this includes funding for a range of child care, elder care and disability care services.⁹⁰⁴ Australian and State/Territory governments also have responsibility for funding and delivering services to support people providing care and those receiving care. Some groups of people both receive and provide care and require targeted support to address particular forms of disadvantage that may result.⁹⁰⁵ This paper has found that there are many gaps in the level and type of formal care support currently provided as well as problems in the mode of its delivery.⁹⁰⁶ Recommendations 33-45 address the key problems identified by HREOC in response to the views of the Australian community.

All levels of government have an important leadership role to play in promoting a better balance of paid work and family/carer responsibilities, leading by example and supplying the support necessary to back up their rhetoric. This role goes hand in hand with funding for community awareness campaigns to support and propel Australia's progress in supporting paid work and family/carer responsibilities⁹⁰⁷ and funding data collection to measure this progress and inform future policy development.⁹⁰⁸

Perhaps most importantly, it is governments who are responsible for incorporating a vision of social wellbeing which encompasses the principle of shared work – valued care with the more traditional goal of economic wellbeing. Supporting this principle, along with a commitment to gender equality and supporting paid work and care across the life course as needs change, should be a central and coordinating feature of all government efforts to support families to meet their paid work and family/carer responsibilities.

900 See Chapter 6, Recommendations 25-32.

901 See Chapter 1 and Chapter 3.

902 See Chapter 1 and Chapter 3.

903 See Chapter 3 and Chapter 4.

904 See Chapter 7 and Chapter 8.

905 See Chapter 8.

906 See Chapter 7 and Chapter 8.

907 See Chapter 5 and Recommendation 22.

908 See Chapter 1, Recommendations 1-3, and Recommendation 11.

The role of employers

Employers have an important role to play in implementing these principles and, in addition to the roles outlined above, government agencies can play a role in supporting them to do so.⁹⁰⁹

This paper has found that workplace recognition of employee family/carer responsibilities is a key issue in the Australian community. The “ideal worker” is often understood in the workplace as an individual who can meet the demands of paid work without any interruptions from family life.⁹¹⁰ However this assumption is flawed because very few employees do not have any family or care responsibilities across the course of their lives. And all employees must have time to care for themselves. Not recognising the family/care aspects of employees’ lives is a particularly untenable approach given the ageing of the Australian workforce and the corresponding likelihood of increased care needs for parents and spouses. Elder care is the next frontier in the broader “work and family” debate and workplaces will need to respond to it in the years to come.

Other workplace issues that have been identified by HREOC include:

- the need for a mix of certainty and flexibility in conditions of work, adaptable for employees across the life cycle and paid work and family/carer needs change;
- the need for structural support for gender equality and equality for all types of carers;
- the need for cultural change to implement existing family-friendly policies and to support further change; and
- the need for expanded legal rights, as mentioned above.⁹¹¹

Workplace responses that will meet these needs include more flexibility around hours and, for many employees, shorter but secure hours of paid work, quality part time work, pay equity for men and women, family-friendly policies that incorporate gender equality, including stronger incentives for men to take them up and the workplace culture change to support this, better strategies for implementing family-friendly policies, and greater leadership and organisational support both within individual workplaces and at an industry level.⁹¹² A number of recommendations support further work in these areas.⁹¹³

The importance of senior and line managers was a common theme in HREOC’s consultations and focus groups. Men in managerial or otherwise influential roles have the potential to be a powerful source of change in terms of encouraging implementation of family-friendly policies and encouraging supportive attitudes within organisations. For male employees in particular, role modelling by senior men indicates permission to take up family-friendly policies without risk to their livelihoods or careers.⁹¹⁴

While there is not a “one-size-fits-all” solution to the family/carer responsibilities of all employees across the diversity of industries, occupations and employer sizes, all employers share responsibility for helping their employees meet their family and carer obligations.

909 See Chapter 4 and Recommendations 8, 9, 10, 12, 16, 17, 19, 20 and 21.

910 See discussion in Chapter 4 (sections 4.1 and 4.4).

911 See Chapter 4.

912 See Chapter 4.

913 See Recommendations 7, 8, 9, 10, 16, 18, 19 and 20.

914 See Chapter 4 (section 4.8).

The role of communities

Government and employers cannot meet the challenge of balancing paid work and family/carer responsibilities without the support of the broader Australian community. It is communities that provide the social infrastructure that facilitates the combination of paid work and care. This includes local community networks that can both provide care and support those who care.

In order to function, this social infrastructure must be supported by the necessary physical infrastructure. Governments have a responsibility to make sure that the planning and design of our cities and transport systems provide this support. Without it, the quality and quantity of time available for caring responsibilities, including engaging with friends, neighbours and community activities, is lessened. While our built environment cannot on its own create community, it can facilitate community interaction by making sure people have the places and the time to interact with each other.⁹¹⁵

Community services contribute to this caring environment and play a vital role in directly supporting as well as educating and building the capacity of those who provide care to others. Adequate funding and appropriate services that meet differing carer and care needs are essential supports for families undertaking paid work and family/carer responsibilities.

Meeting the needs of both female and male carers is also important. Evidence gathered by HREOC shows that men in particular require targeted support to facilitate their participation in care work.⁹¹⁶ Community-based programs and resources to support men's involvement in families as carers is a crucial part of encouraging shared work and valued care within individual families and its acceptance in the community as a whole.⁹¹⁷ Positive community attitudes toward paid work and family/carer responsibilities play a key role in supporting both women and men as employees and carers.⁹¹⁸

The role of families

Individuals and families themselves are best placed to make decisions about the paid work and family/carer responsibilities that are right for them. However HREOC has heard that many families are unable to make the choices that they want to make due to inadequate support and a mix of pressures arising within the workplace, government policy, formal care provision and community attitudes.⁹¹⁹ The paper's recommendations across each of these areas aim to increase the level of support and decrease the pressures experienced by families so they can make choices that are appropriate for their circumstances without undue penalty. In particular, they are aimed at making sure that the decisions families make at certain points in the life course (for example, lowering paid workloads when demands for care are high) do not lock them into untenable long term positions of disadvantage.

HREOC has found that despite their desire to be hands on carers in the family, men in particular experience significant cultural expectations and pressures to be primary breadwinners, and this hampers their ability to be involved parents and care givers. Women, on the other hand, experience significant pressures resulting from a dual and sometimes triple load of paid work, child care and elder care, along with their disproportionate responsibility for the majority of other unpaid household work.⁹²⁰ Men and women who are locked into either of these gendered roles over a long period

915 See Chapter 9.

916 See discussion throughout Chapter 5.

917 See Chapter 5 (section 5.8) and Recommendations 21, 22, 23 and 24.

918 See Chapter 5 and Recommendation 22.

919 See Chapter 2 and Chapter 5.

920 See Chapter 5, and also Chapter 3 and Chapter 4 in the *Striking the Balance* discussion paper.

can experience significant financial disadvantage (particularly in old age), poor quality family relationships and even relationship breakdown, poor health from time pressure, lack of time for self care and a poor match between expectations of parenthood (such as a desired number of children) and their fulfilment. Without the ability to negotiate and transition between different paid work and family/carer roles both women and men can experience damaging trade-offs.

For many Australian families, HREOC has found that sharing parental care in particular is a desirable choice and an ideal vision of family life. Many families do not currently feel this is a realistic option, especially at critical or transitional points in their lives.⁹²¹ The findings and recommendations made throughout this paper aim to make this vision a genuine option for all family types, including families with myriad family/carer responsibilities including care for people with disability and elder care.

10.5 Striking the balance is a shared responsibility

Organic social and demographic change will go some way to making shared work and valued care a reality in Australian society, particularly as elder care needs increase in line with the ageing of the population. An increase in care needs will inevitably drive a response which involves more and more people combining paid work and family/carer responsibilities. In large part however, meeting the social and financial costs of our current and future paid work and care needs requires a much more holistic response on behalf of the range of social stakeholders who both bear the costs of care and share in its benefits. This is because individual responses to increasing paid work and family/carer responsibilities can only go so far without either a large downturn in workforce participation or a widespread care crisis. Governments, workplaces, communities, families and individuals all have a share in a fair spread of paid work and family/carer responsibilities across Australian society.

Current inequalities in the spread of the costs and benefits of paid work and the essential work of care are not sustainable. What is urgently needed is a new framework to guide a national response that incorporates changes in caring needs and responsibilities across the life cycle, equality between men and women and the principle of shared work and valued care. We need to refocus national attention on this issue in order to properly value the work of care and share the responsibility for its provision between men and women, and between the private and the public spheres. It is about time.

921 See Chapter 5.

List of Submissions

- 1 Dan Ahern
- 2 Maurice Mok
- 3 Kay Pearson
- 4 Phil Jones
- 5 Confidential
- 6 J S Kempster
- 7 Carol Cunningham
- 8 Jenny Smith
- 9 Tanya Fane
- 10 Ruth Wells
- 11 Confidential
- 12 Beverly Puls
- 13 Julie Blyth
- 14 Sydney for Kids
- 15 Johnny Ruigo
- 16 Julia
- 17 Graham Buckby
- 18 Gerard Mugan
- 19 Lone Fathers Association Australia
- 20 Emma Hawkes
- 21 Christopher Newell
- 22 Peter Steindl
- 23 Far North Fathers
- 24 The Memucan Institute
- 25 Confidential
- 26 Amanda Luxmoore
- 27 Harry Levy
- 28 Audrey McDonald
- 29 John S. Smyth
- 30 Joan Garvan
- 31 Confidential
- 32 Karl Tietze
- 33 Australasian Institute of Mining and Metallurgy
- 34 Leonie Bloomfield
- 35 Confidential
- 36 Confidential
- 37 Rebecca Fowles
- 38 Job Watch Inc
- 39 Confidential
- 40 COTA National Seniors Partnership

41	Ann Villiers
42	Anne Stewart
43	Natalie Smith
44	NSW Equal Employment Opportunity Practitioners' Association
45	National Council of Jewish Women of Australia
46	Centre for Women's Studies and Gender Research, Monash University
47	Noel Wilson
48	Confidential
49	Metaira Pty Ltd
50	Families Australia
51	Brett Goyne
52	Kathryn Moon
53	Nadine Zacharias
54	Andrea Hardwick
55	Deb Hart
56	Margaret Williams
57	Confidential
58	Bob Hodgson
59	Joan Trewern
60	Carers Australia
61	Confidential
62	Queensland Council of Social Service Inc
63	Women's Health Victoria
64	Maurice Salomone
65	Natalie Morton
66	Australian Medical Association
67	Police Federation of Australia
68	David Wilkes
69	WomenSpeak Network
70	K Lee Adams
71	Shop Distributive and Allied Employees' Association
72	National Council of Women NSW
73	Country Women's Association of NSW
74	Pan Pacific and South East Asia Women's Association Australia Incorporated
75	Confidential
76	Disability Council of NSW
77	Working Carers Support Gateway
78	Confidential
79	Glenda Sinclair-Gordon
80	Suzanne Zahra
81	Men's Information and Support Centre
82	Jasna Hadzimejlic
83	Anna Chapman
84	Trevor Shell
85	Women's Action Alliance

- 86 National Council of Single Mothers and their Children Inc
- 87 Confidential
- 88 Kathryn Pollard
- 89 Volunteering Australia
- 90 Community and Public Sector Union
- 91 Australian Bahai Community
- 92 National Family Day Care Council of Australia
- 93 YWCA Australia
- 94 Department of Employment and Workplace Relations
- 95 Victorian Women Lawyers
- 96 Premier's Council for Women (SA)
- 97 Kitten News
- 98 Sara Charlesworth
- 99 Jenny Chalmers and Trish Hill
- 100 UnitingCare Burnside
- 101 Veronica Abbott
- 102 Work + Family Policy Roundtable
- 103 Confidential
- 104 People with Disability Australia
- 105 Victorian Local Governance Association
- 106 Belinda Smith
- 107 Bronwen Burfitt
- 108 Association of Professional Engineers,
Scientists and Managers Australia
- 109 Business and Professional Women Australia
- 110 National Tertiary Education Industry Union
- 111 Relationships Australia Inc
- 112 Women Lawyers' Association of NSW
- 113 Jeane Wells
- 114 Marty Grace, Mary Leahy and James Doughney
- 115 Women's Electoral Lobby Australia
- 116 Emily Lewis
- 117 Australian Capital Territory Human Rights Office,
Northern Territory Anti-Discrimination Commission,
Anti-Discrimination Commission Queensland, Equal
Opportunity Commission Western Australia, and Equal
Opportunity Commission of South Australia
- 118 Queensland Independent Education Union
- 119 Australian Education Union
- 120 Law Institute of Victoria
- 121 Diversity Council Australia Limited
- 122 Australian Chamber of Commerce and Industry
- 123 Paul Whyte
- 124 mensplace
- 125 Equal Opportunity Commission Victoria
- 126 Government of Western Australia
- 127 Confidential

128	Third Year Honours Students, Work and Organisational Studies, School of Business, University of Sydney
129	Australian Women's Coalition
130	Confidential
131	Confidential
132	Confidential
133	Confidential
134	Confidential
135	Confidential
136	Confidential
137	Confidential
138	Confidential
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151	Confidential
152	Confidential
153	Confidential
154	Confidential
155	Mark Dossetor
156	Angela Campbell
157	Anne M and Jocasta Sibbel
158	Confidential
159	Independent Education Union of Australia
160	Industrial Relations Victoria
161	Australian Manufacturing Workers' Union
162	Australian Industry Group
163	Australian Breastfeeding Association
164	Dianne McIntosh
165	Charlotte Johnstone
166	Queensland Government
167	UnionsWA
168	Anonymous
169	Peter S Cook
170	Anti-Discrimination Board of NSW
171	Robert Mercer
172	Care For Kids Internet Services Pty Ltd

173	Andrew King
174	Confidential
175	NSW Commission for Children and Young People
176	Shona Guilfoyle
177	National Carers Coalition
178	Elwyn Ingle
179	Victorian Automobile Chamber of Commerce
180	Department of Employment and Workplace Relations (supplementary)
181	Peter S Cook (supplementary)

Consultations and Focus Groups

HREOC conducted a series of 28 consultations around Australia during 2005 and 2006 with employers, employees, community organisations and individuals following the release of the *Striking the Balance* discussion paper. The dates of these consultations follow.

Date	Consultation
11 July 2005	Community consultation, Adelaide
11 July 2005	Union consultation, Adelaide
12 July 2005	Employer consultation, Adelaide
12 July 2005	Employer consultation, Melbourne
13 July 2005	Community consultation, Melbourne
14 July 2005	Union consultation, Melbourne
4 August 2005	Community consultation, NSW Central Coast
10 August 2005	Employer consultation, Hobart
11 August 2005	Community consultation, Hobart
11 August 2005	Union consultation, Hobart
17 August 2005	Community consultation, Melbourne
18 August 2005	Employer consultation, Canberra
18 August 2005	Community consultation, Canberra
5 September 2005	Union consultation, Canberra
7 September 2005	Union consultation, Sydney
7 September 2005	Community consultation, Parramatta
12 September 2005	Community consultation, Kalgoorlie
13 September 2005	Employer consultation, Perth
13 September 2005	Community consultation, Perth
14 September 2005	Union consultation, Perth
22 September 2005	Community consultation, Darwin
22 September 2005	Employer consultation, Darwin
23 September 2005	Union consultation, Darwin
26 September 2005	Union consultation, Brisbane
27 September 2005	Community consultation, Brisbane
27 September 2005	Employer consultation, Brisbane
26 October 2005	Community consultation, Sydney
9 November 2005	Community consultation, Sydney

Sixteen focus groups were also conducted across New South Wales, Victoria, Tasmania, South Australia and Western Australia. Focus groups were held with public and private employers, white and blue collar employees, mothers, fathers, and primary school aged children. In order to preserve the anonymity of participants, we have not listed details of these focus groups such as dates or the organisations that hosted these groups.

HREOC thanks the many individuals who helped organise our consultations and focus groups and all of those who shared their views and their personal stories with us.

HREOC would also like to thank the following organisations for their particular assistance with this project:

ACT Chamber of Commerce
ACT Human Rights Office
ACTU
Anglicare
Anti-Discrimination Commission Queensland
Bankstown City Council
The Benevolent Society
Carter Holt Harvey (CHH) Pine Panels Plant, Bell Bay
Chamber of Commerce Northern Territory
Commerce Queensland
Equal Opportunity Commission of South Australia
General Motors Holden
Goldfields Men's Health
Hydro Tasmania
K & S Corporation Ltd
Liquor, Hospitality and Miscellaneous Union (LHMU), NT Branch
Mensline Australia
mensplace
Niagara Park Community Centre
Northern Territory Anti-Discrimination Commission
Penrith City Council
Pole Depot Neighbourhood Centre
Queensland Council of Unions
Real Estate Institute of South Australia
Real Estate Institute of Victoria
Tasmanian Chamber of Commerce and Industry
Unions ACT
Unions NSW
Unions NT
SA Unions
Unions Tasmania
Unions WA
Victoria Police
WA Chamber of Commerce and Industry
WA Chamber of Minerals and Energy
WIRE Women's Information (Victoria)
Women Tasmania

Advisory panels

HREOC formed a number of honorary advisory panels to help guide the development of this paper. HREOC consulted with members of these panels formally and informally and sought comment on the draft of this paper. HREOC is grateful for this assistance.

Academic Panel

Michael Alexander	Australian Institute of Family Studies
Janeen Baxter	University of Queensland
Michael Bittman	University of New England
Dorothy Broom	Australian National University
Sara Charlesworth	RMIT University
Lyn Craig	University of New South Wales
Michael Flood	La Trobe University
Barbara Pocock	University of South Australia
Alison Preston	Curtin University of Technology
Graeme Russell	Macquarie University
Lyndall Strazdins	Australian National University
Penny Warner-Smith	University of Newcastle

Employment Panel

Scott Barklamb	Australian Chamber of Commerce and Industry
Tim Ayres	Australian Manufacturing Workers' Union
Cath Bowtell	Australian Council of Trade Unions
Melinda Cilento	Business Council of Australia
Vasuki Paul	Australian Industry Group
Alison Peters	Unions NSW
Margaret Piercy	Australian Workers Union
Tony Steven	Council of Small Business Organisations of Australia

Community Panel

Robert Boyle	The Benevolent Society
Adrienne Burgess	Fathers Direct (UK)
Eva Cox	Women's Economic Think Tank/University of Technology Sydney
Jenny Earle	Women's Electoral Lobby
Robert Hicks	Goldfields Men's Health
Gerry Orkin	Canberra Fathers and Children Service Inc
Shawn Phillips	Ministerial Council for Suicide Prevention (WA)
Therese Sands	People with Disability Australia
Colleen Sheen	Carers Australia
Tony White	UnitingCare Burnside
Paul Whyte	Sydney Men's Network

HREOC also sought comment on the draft of this paper from the following agencies.

Attorney-General's Department
Department of Employment and Workplace Relations
Department of Family, Community Services and Indigenous Affairs

The views expressed in this paper remain those of HREOC alone.