

# **ACTU Submission to the Senate Committee Inquiry on Economic Security for Women in Retirement**

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## Introduction

1. The ACTU and affiliated unions represent 1.8 million working people (including approximately 900 000 women) and their families.
2. Australian unions are committed to improving the quality of life of all Australian workers after they retire and have played a pivotal role in helping to build our retirement income system.
3. We welcome the opportunity to make this submission to the Senate Committee regarding Economic Security for Women in Retirement.
4. Currently, superannuation balances and payouts for women are approximately half of those of men. As a result, women are more likely to be solely reliant on the Age Pension in retirement, leaving them vulnerable to poverty.
5. Unless a concerted effort is made to implement long term strategies that address the structural inequalities which underpin the discrepancy between male and female retirement incomes, women will continue to be severely disadvantaged.
6. This submission outlines the package of reforms that we believe are necessary to address this injustice and ensure that women have access to an adequate standard of living in retirement.
7. We propose measures to remove systemic disadvantage in the current superannuation scheme, recognise and reward unpaid caring work, remove existing barriers to women's participation in the paid workforce, improve the adequacy of the aged pension and boost women's superannuation balances.

## The inadequacy of women's retirement incomes

8. The current retirement incomes system fails to provide equitable outcomes for women and raises significant concerns about poverty and financial hardship in retirement.
9. Detailed analysis of ABS data prepared by the Association of Superannuation Funds of Australia Limited (ASFA) shows that the superannuation gap in 2012 was 47% with average superannuation balances at the time of retirement being \$105,000 for women and \$197, 000 for men – a difference of \$92 000. In 2030, the gap is expected to be 39% with average balances projected to be \$262,000 for women and 432,000 for men – a difference of \$170 000.<sup>1</sup>
10. Superannuation balances for women entering retirement in the near future are well below the amount needed to fund a comfortable standard of living. One commonly used measure of adequacy in retirement is the ASFA Comfortable Standard of Retirement Income which is, at the June quarter 2015, for a single person an amount of \$42,861 per annum. ASFA further calculates that the amount of lump sum needed to fund such a payment, for the life expectancy of a 65 year old is determined to be approximately \$545,000.<sup>2</sup>
11. Further, the inadequacy of women's retirement incomes is forecast to remain a significant problem for generations to come. Modelling conducted by ISA and Rice Warner indicates that two thirds of single women retiring between now and 2055 and more than half of women currently aged 25-29 will retire on incomes below a comfortable standard.

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<sup>1</sup> Based on modelling prepared by Industry Super Australia

<sup>2</sup> Further information on the ASFA Retirement Standard is available at <http://www.superannuation.asn.au/resources/retirement-standard>

12. The gender pay gap (currently 17.9% as measured by average weekly ordinary time earnings) has a very significant impact on the level of lifetime earnings and retirement savings accumulated through superannuation contributions.
13. The gap in account balances and wealth acquired from other assets means that women are more heavily reliant upon the Age Pension and more likely to be living in poverty in their retirement. In 2013, 54.3 per cent of persons who received the aged pension were women, compared with 45.7 per cent of men.<sup>3</sup>
14. Single women fare worse financially in retirement, compared to couples and single men. This is compounded by the higher living costs for single individuals, compared to those in couples who are able to share living costs.

## Causes of retirement income inequality

15. There are a range of factors which contribute to retirement inequality for women. A number of them are particular to characteristics of women's participation in the workforce – there are inequalities generated by a lack of equality in pay, there are also inequalities generated by the fact that women are disproportionately represented in the those occupations which make up the lower pay deciles and which are heavily influenced by part time working status and casualization.
16. Women are more affected by breaks in employment – often for maternity leave and the predominance of women being absent from the workforce during child raising years. Women are also more likely to reduce their hours or exit the workforce at a younger age in order to care for elderly parents and other family or household members. These factors often limit women's ability to progress into higher work classifications and remain in those positions.
17. Direct and indirect gender discrimination, the absence of flexible work practices and lack of access to training for employees engaged on a part-time or casual basis further restricts the opportunities available to women to progress in their careers and maximise working hours.
18. The discrepancy between male and female lifetime retirement incomes is also partially explained by the cumulative effect of compounding on superannuation account balances over time and the fact that women have a longer life expectancy than men.

## Improving women's retirement incomes

19. The primary focus of the Australian retirement income system must be to support workers when they stop working. This goal is achieved through a worker having an adequate retirement income stream to meet a level of expenditure consistent with average community standards which is financed through or by a combination of superannuation, private savings and the Age Pension.
20. A supplementary focus should be to increase the contribution payable for women to help compensate for structural disadvantage such as is described above together with the need for women to accumulate more at retirement given they will, on average, live longer than men and therefore have a need for a greater lump sum at retirement.

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<sup>3</sup> ABS 6238.0 - Retirement and Retirement Intentions, Australia, July 2012 to June 2013

21. In addition the superannuation system needs to look at a number of its structural features to ensure that inherent discrimination against women does not occur because of the way in which their working lives are arranged. Aspects of the system which may be addressed in this regard include recognising periods of inactivity at an earlier stage and ensuring fee deductions are not unnecessarily made as well as looking at the level of administration deductions to ensure that the fee being charged is reflective of an “inactive” status.
22. We advocate for a comprehensive and strategic approach that takes into account the reality of women’s working lives. The effects of wage inequality on lifetime earnings and impact of caring responsibilities on workforce participation means that for the foreseeable future women can not reasonably be expected to generate the same level of retirement savings as men through private effort. Measures designed to increase workforce participation must therefore be paired with direct Government interventions that boost women’s retirement savings and improve the aged pension.

## Superannuation System Reforms

23. This section highlights a number of reforms to the superannuation system that are likely to benefit low-paid employees (including women) and proposes several additional measures designed to provide greater financial security for women in retirement by improving superannuation account balances.

### Increase the Superannuation Guarantee rate to 12 per cent by 2019

24. It is widely acknowledged that a compulsory Superannuation Guarantee ('SG') of 9 per cent is inadequate to fund the retirement incomes of low and middle income earners, particularly those whose working lifetime commenced prior to the introduction of the SG system and whose benefit in retirement does not reflect system maturity.
25. Even at maturity the system will be inadequate for sections of workforce, particularly women, who suffer low contribution amounts and disrupted periods of saving. This is particularly so as the full contribution does not go into superannuation savings. After tax, fee, commissions and insurance are deducted, the figure is closer to 7.5 per cent.
26. The union movement has been campaigning for an increase in the SG rate for many years. Increasing the mandatory contributions rate is particularly important for women as they have fewer financial assets in retirement and are less able to make voluntary superannuation contributions than men.
27. In 2012, the Labor Government passed legislation to lift the SG from 9 to 12 per cent by 2019. The mandatory rate increased to 9.5 per cent from 1 July 2014 in accordance with the original timetable for phasing in the increase.
28. The Coalition Government subsequently delayed implementation of the increase to 12 per cent. As a result, the SG will remain at 9.5 per cent until 2021 and will increase by 0.5 per cent per annum until it reaches 12 per cent in July 2025.
29. The deferred implementation of the SG rate will result in lower superannuation balances for women (particularly young women) than would have been achieved under the original timetable and will reduce the proportion of women that can afford a comfortable standard of living in retirement.
30. The recently published Mercer Global Pension Index for 2014 rated Australia the second best system in the world, but rated it at a level which said it was "A system that has sound structure, with many good features, but has some areas for improvement that differentiates it from an A-grade system". A feature of Australia's recent improvement in its rating within this Index has been the legislated increases which will raise the SG from 9 to 12 per cent.<sup>4</sup>
31. The ACTU urges this Committee to recommend that implementation of the 12 per cent SG rate be fast-tracked, preferably in line with the original timetable.

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<sup>4</sup> Melbourne Mercer Global Pension Index [www.globalpensionindex.com/overall-index-results/](http://www.globalpensionindex.com/overall-index-results/)

### **Implement progressive superannuation tax concessions based on marginal rates minus a rebate.**

32. Superannuation tax concessions were designed to encourage and reward those who save for their retirement. However, increasingly they are used by high income earners to minimise tax and are heavily skewed to the benefit of the wealthiest in the community.
33. Superannuation contributions and investment earnings are currently taxed at a flat 15 per cent. This is significantly lower than income tax rates that apply to those earning in excess of \$37 000 which range 25 to 39.6 per cent and provides a benefit to those on higher incomes.
34. Analysis conducted by ISA and Rice Warner estimates that of the \$30 billion per year foregone by the Government in superannuation tax concession, 35 per cent of concessions flow to the top 10 per cent of income earners, whereas only 29 per cent flow to the bottom 70 per cent. As women earn less on average than men and have disrupted work patterns, they receive a smaller proportion of superannuation tax concessions.
35. Moreover, low income earners (many of whom are women) are severely penalised as the tax rate on superannuation contributions and earnings exceeds the marginal rate of income tax for those earning below than the tax free threshold. In other words the regressive nature of super tax concessions not only benefits those on higher incomes to a greater extent but actually reduces retirement savings for low income earners by requiring them to pay more tax on superannuation than on their ordinary income.
36. It is estimated that those in the bottom decile of taxable income, pay an additional \$242 per annum in tax on their superannuation where as those in the top income decile save over \$10 000 per annum.<sup>5</sup>
37. Superannuation contributions and earnings should be taxed at concessional rates up to a level which provide for adequate retirement income. Progressive rates of taxation should apply to encourage saving and to ensure fairness and equality of access to concessions across all levels of income.
38. The ACTU strongly advocates for progressive taxation of superannuation, based on marginal rates minus a rebate.
39. Addressing the inequitable nature of current tax settings will improve women's retirement incomes, particularly for those on lower-incomes and increase incentives for women to contribute to their retirement savings by putting money into superannuation. It will also help generate revenues to help maintain the value of entitlements like the Age Pension that support women in retirement.

### **Retain the Low Income Superannuation Contribution until a progressive superannuation system has been implemented**

40. The low income super contribution (LISC) is a Government superannuation payment of up to \$500 to help those earning less than \$37 000 save for retirement. The LISC operates as a tax rebate, effectively offsetting the tax paid by low income earners up to \$500 per annum thus allowing low income earners to accrue a tax concession on their superannuation contributions like all other income earners.

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<sup>5</sup> Based on modelling conducted by ISA and Rice Warner

41. The LISC was introduced in response to the Henry Tax Review and was designed to address the inequitable tax treatment of low income earners superannuation contributions.
42. The LISC is currently paid to 3.6 million people and 2 thirds of those in receipt of the LISC are women. It is one of the few dedicated measures to improve the retirement income adequacy of women.
43. The Government originally planned to abolish the LISC by 2012/13. Legislation has recently been passed to extend payment of the LISC until 2016/17.
44. This is a step in the right direction. While not a perfect policy, the LISC addresses the most obvious inequity in the superannuation system by eliminating the tax burden on superannuation contributions for those who can least afford it.
45. It is critically important that the LISC be retained until progressive taxation is implemented in order to ensure that low income earners, the majority of whom are women, are not disadvantaged by having to pay more tax on their superannuation contributions than on their ordinary income.

### **Extend the SG entitlement to all employees regardless of age and minimum earnings**

46. Employers are not currently required to make superannuation payments to adult employees earning less than \$450 per month before tax or employees over the age of 18 unless they work over 30 hours per week and earn more than this amount.
47. The minimum earnings threshold disproportionately impacts on women who often combine caring and other household-related responsibilities with low-paid or part-time employment. It also acts to exclude those, especially women, who hold a number of separate jobs which can approximate to a single full-time job in terms of total hours and income, but because payment from each employer does not meet the SG threshold the employee is excluded from the super system.
48. Estimates show that around 250,000 individuals miss out on superannuation contributions due to not satisfying the \$450 monthly earnings threshold.<sup>6</sup>
49. The administrative requirements associated with making payments to low-income earners do not provide a sound rationale for excluding those with limited means from receiving a component of their wages. Extending superannuation entitlements to all employees is likely to be a relatively simple task for most businesses as payment of wages, superannuation payments, tax deductions is facilitated by automated payroll and electronic account systems.
50. The minimum earnings threshold should be removed in order to increase superannuation balances for low income earners including women and ease pressure on the pensions system by improving retirement incomes for those most likely to depend on Government assistance.
51. The additional cost to Government of funding the LISC for employees earning below the existing threshold is estimated to be around \$5 million. This represents a fairly modest and strongly warranted investment.

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<sup>6</sup> Ross Clare, *Equity and superannuation – the real issues* (September 2012), Association of Superannuation Funds of Australia



### **Boost women's superannuation through a 2% increase in mandatory employer contributions**

52. Though women stand to benefit from measures that address the inequitable structure of tax concessions and increase mandatory superannuation contributions for all employees, additional measures are urgently needed to boost women's superannuation balances.
53. The structural inequalities that underpin the gap between retirement incomes for men and women mean that it is unrealistic to rely exclusively on policies that do not target women.
54. As noted above, women earn less than men on average for a variety of reasons and are more likely to have fragmented work patterns. These factors substantially reduce women's superannuation contributions as superannuation is a form of deferred wages directly tied to employment.
55. Women also live longer than men and thus need to save about 16 per cent more than men to generate the same annual income in retirement as their savings are spread over a longer period of time. Modelling by Rice Warner demonstrates that this situation can be equalised by paying women 10.5 per cent of salary where men receive 9 per cent. The required contribution will be 13.95 per cent when the SG rate increases to 12 per cent.
56. In order to boost women's superannuation balances and address the effects of longevity on annual retirement incomes, the SG rate for women should be increased and maintained at a level that is 2 per cent higher than the mandatory rate for men.
57. Requiring employers to contributing an additional amount with respect to women employees does not disturb the linkage between wages, superannuation and employment. It simply recognises that superannuation is a workplace entitlement where specific affirmative provision is required for women.
58. It should be noted that a permanent exemption or amendment would need to be made to the provisions of the *Sex Discrimination Act 1984* to enable employers to pay additional superannuation to women employees.

### **Implement a Government-funded annual superannuation payment for low-income employees early in their working lives**

59. The crisis in women's retirement incomes is not simply a matter for individual and employer action. The Government has a responsibility to provide assistance to ensure that women have sufficient financial resources to ensure an adequate standard of living in their retirement.
60. Government contributions to individual superannuation accounts have an important role to play in achieving this goal and relieving widespread dependence on the Age Pension system.
61. The ACTU supported the existing co-contribution scheme on the basis that it provides incentives for low income earners (both male and female) to make additional contributions towards their retirement savings.
62. Under the current scheme, employees earning less than \$50 454 per annum that make an after tax contribution to their superannuation are entitled to a Government contribution of 50 cents for every dollar contributed up to a maximum of \$500.
63. Employees that earn under the threshold and who have access to other forms of financial support (for example their partner is the primary income earner) are able to boost their retirement incomes by contributing part of their salary toward superannuation. In our experience those most likely to make a contribution include women returning to workforce

after having children who wish to make up for the absence of superannuation payments on paid and unpaid parental leave and those nearing retirement. These women clearly benefit from the Government contribution.

64. However, we also recognise that the scheme has its limitations. In particular, employees living in low-middle income households have little capacity to take advantage of the scheme as their income is likely to be required to meet short-term household expenses.
65. The scheme is also not particularly effective in encouraging young workers to make superannuation contributions early in their working lives and consequently the returns on the Government investment are not particularly great.
66. For these reasons, we recommend that the Government make a modest annual payment to low-income earners early in their working lives in addition to the existing co-contribution scheme. The provision of 'super seed funding' specifically for low-income employees early in their working lives would make a very significant difference to women's superannuation balances on retirement due to the effects of compounding on account balances.
67. ISA has modelled a \$5,000 annual Government contribution into the active superannuation account of persons in the three lowest income deciles whilst they are aged 27 to 36 inclusive. Their analysis shows that the Government payment would increase superannuation balances for single women by over \$70 000 and nearly \$170 000 for couples retiring in 2055.
68. The ACTU supports replacing the existing co-contribution scheme with a super seed provided that the total Government contribution for low-income earners is not reduced.

**Ensure that superannuation contributions to employees during period of parental leave, whilst on workers compensation and with respect to long term transfer payment recipients.**

69. The current paid parental leave scheme fails to include mandatory superannuation contributions. Excluding employees on paid leave from superannuation payments is inconsistent with the treatment of most leave entitlements, unfairly discriminates against primary carers (predominantly women) and is a small, though still significant, factor contributing to the discrepancy between male and female retirement savings.
70. We note that the Productivity Commission and Australian Human Rights Commission have both recommended that superannuation payments be included in the Government funded paid parental leave scheme so that women do not miss out on contributions at this critical point in their lifecycle.
71. Superannuation payments are also generally not payable to employees on workers compensation. Workers' compensation is a form of insurance payment to employees if they are injured at work or become sick due to their work. Workers' compensation includes payments to employees to cover their wages while they're not fit for work, medical expenses and rehabilitation. As superannuation is a form of deferred wages, it is appropriate that superannuation contributions be maintained for those on workers compensation.
72. The ACTU recommends that superannuation payments be made on all periods of paid and unpaid parental leave and whilst on workers compensation. This will help ensure that women's retirement incomes continue to grow whilst they remain formally attached to the workforce.

73. Long-term carers in receipt of Carer Payments or Allowances should also have additional superannuation payments made by the government on their behalf. Women are disproportionately responsible for caring for ill and disabled children and other family members on a long-term basis. Many long-term carers are unable to participate in the labour force because they play a vitally important social role in providing essential support to some of the most vulnerable people in our society. They should not be penalised for doing so by being denied the chance of a decent standard of living in retirement.

## Aged Pension Reforms

### Increase the single pension rate the aged pension

74. For many women workers the Age Pension will continue to provide much of their post-retirement income. It is therefore vital that the public policy emphasis on promoting compulsory and voluntary saving does not distract from the need to maintain and enhance the value of the Pension now and into the future.
75. In 2009, the Commonwealth implemented the recommendations of the Harmer Pension Review, which increased the benchmark for the singles rate of the Age Pension from 25 to 27.7 per cent of Male Total Average Weekly Earnings. The policy rationale for using this benchmark is weak as the increase in female labour force participation means a wage measure covering only males is an anachronism in the context of contemporary Australia.
76. The single pension rate, relative to the combined couple rate, needs to be lifted and a new benchmark adopted which reflects the increased role of women in the workforce, eliminates the influence of changing shares of full time and part time jobs, and eliminates the influence of the business cycle on earnings.
77. The Union Movement supports a new benchmark of 35 per cent of Full Time Adult Average Weekly Ordinary Time Earnings and a single–couple equivalence of 70 per cent. This is a stretch target, which the ACTU believes should be achieved by 2025.
78. The ACTU opposes the Federal government’s proposals to lift the retirement age to 70. The ACTU believes that workers should not be forced to arbitrarily continue to work at ages when it is generally recognised that significant numbers of workers, particularly in manual occupations, will simply be unable to meet the demands of the roles they are being required to perform. The ACTU also opposes lifting the Preservation Age (at which retired workers can access their superannuation) in that we believe the current age of 55 allows for flexibility for workers to retire when, on an individual basis, it is appropriate for that worker to retire.
79. The ACTU opposed the recent changes to the pension taper in which the amount of pension received by an Age Pensioner reduces by 50 cents in the dollar when a single person holds more than \$348,500 in assessable assets. The ACTU believes this creates a significant marginal taxation impost on older persons. The ACTU is also opposed to the situation that the burden for the delivering a Budgetary saving from pension reform fell solely on those persons in the 3rd to 8th deciles of wealth. The ACTU believes that tax concessions made available to richer Australians ought to be the priority for reform in the superannuation area and we have called on the Government to reverse its current legislation in favour of a regime which would tax those who receive the greatest benefit from tax concessions.

## Workforce participation and gender pay equity reforms

80. This section outlines a number of measures to address barriers to women's workforce participation and enable women to more effectively balance their caring and work responsibilities.
81. Implementing these reforms recognises the invaluable contribution that women make to our community as carers and will assist women to improve their own financial position in retirement by enabling them to more actively participate in the workforce over the course of their lifetimes.
82. However, boosting women's workforce participation is unlikely to equalise male and female retirement incomes and it is not fair to expect women to work twice as hard as those without caring responsibilities in order to achieve an adequate standard of living in retirement.
83. For this reason, workplace measures must form part of a comprehensive and holistic strategy that addresses structural issues such as the gender pay gap and provides additional financial support for women in retirement.

### Provide universal access to quality, affordable childcare

84. One of the most significant changes that could be made to support women's workforce participation and bolster women's retirement incomes is to provide universal access to quality, affordable early education and care.
85. The number of ECEC services has expanded substantially over the past five years to cater for the additional demand, however, access to affordable ECEC remains a significant problem. There are long waiting lists in some areas and with respect to certain age groups (such as for babies in city centres) and parents of young children commonly struggle to find ECEC services that meet their needs and enable them to obtain work or increase their working hours.<sup>7</sup> Many parents pay for (and the Australian Government subsidises) ECEC places that are under-utilised but which are seen by parents as a way of gaining some flexibility to enable possible changes in their workforce participation.
86. Moreover, the cost of childcare has sky-rocketed in the past decade. The out-of-pocket cost of childcare after Government subsidies have been taken into account is nearly 30% per cent of average wages.<sup>8</sup>
87. For low-income families the cost of ECEC services that would benefit their child or assist their workforce participation is prohibitively expensive. The combined effect of the income test on family tax benefits, the operation of individual tax rates and the cost of ECEC can result in an effective marginal tax rate for second income earners (usually mothers), approaching 100 per cent, particularly once work exceeds 3 days per week.<sup>9</sup>
88. The Productivity Commission estimates that there are roughly 165 000 parents (on a full-time equivalent basis) who would like to work, or work more hours, but are not able to do so because they are experiencing difficulties with the cost of, or access to, suitable childcare.

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<sup>7</sup> *Childcare and Early Childhood Learning*, Productivity Commission Inquiry Report, Overview and Recommendations, October 2009 p 9.

<sup>8</sup> *Ibid*, p10.

<sup>9</sup> *Ibid*, p12.

These are parents (mostly mothers) who are currently either not in the labour force or are working part time — most would prefer to work an average 25 hours per week.<sup>10</sup>

89. Whilst the ACTU welcomes the Government's commitment to increase funding for early education and child care sector from 1 July 2017, we believe that public investment continues to fall short of levels needed to enable families to access ECEC services and fully participate in the workforce.
90. Australia has one of the lowest expenditures on early childhood education and care of all OECD countries spending 0.45% of GDP compared to the OECD average of 0.6%.<sup>11</sup>
91. The fact that the families package is contingent on proposed cuts to family tax benefits is highly inequitable and is likely to push low-income women with dependent children into poverty thereby eliminating any possibility of saving for their retirement.
92. The ACTU recommends that funding for ECEC services be increased to a level which would ensure that every child in Australia has access to at least 15 hours a week for 40 weeks per year, of high quality early childhood education taught by a university-trained teacher in the year before school.
93. This equates to just under two days per week and is consistent with the level of early education and care that is subsidised for children in the year prior to commencing school. Providing universal access to 15 hours a week of ECEC for children from birth to school age would facilitate a significant increase in the number of hours that women who wish to work can undertake.

### **Extend the current paid parental leave scheme**

94. Universal access to paid parental leave is also critically important to ensuring that women are able to remain in employment during their child-bearing years and minimise the impact of breaks in employment on career progression.
95. The current paid parental leave scheme provides access to 18 weeks at the national minimum wage in addition to any paid leave entitlements provided by employers.
96. The scheme has been proven to increase the probability of mothers returning to work after birth, particularly among low income earners and single women.<sup>12</sup>
97. However, the government contribution to the current scheme falls well short of the minimum period of exclusive care and breastfeeding recommended for optimal maternal and infant health outcome by the Australian National Health and Medical Research Council and the World Health Organisation.
98. Of the 33 OECD countries that provides parental leave, Australia is one of only two that fails to pay leave based on a replacement wage. The minimum leave period is also significantly shorter than the period of paid leave available to employees in a number of OECD countries which have similar social, demographic and economic circumstances: for example, Canada provides 35 weeks paid leave, the UK provides 39 weeks and Sweden provides 60 weeks.<sup>13</sup>
99. The ACTU urges the Committee to endorse the following improvements to the existing paid parental leave scheme:

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<sup>10</sup> Ibid, p11.

<sup>11</sup> OECD Family database, Public spending on childcare and early education.

<sup>12</sup> ISSR, Paid Parental Leave Evaluation Final Report, November 2014, See p4.

<sup>13</sup> OECD Family database, PF2.1: Key characteristics of parental leave systems, available at <http://www.oecd.org/social/family/database.htm>

- a) Extend the minimum period of paid leave to 26 weeks at no less than the national minimum wage;
  - b) Provide superannuation at the guaranteed contribution rate for all periods of paid and unpaid parental leave; and
  - c) Require employers to top-up the Government component to full wage replacement.
100. Implementing these changes will help reduce the impact of pregnancy and parenting on women's retirement incomes by ensuring that women have the capacity to return to work shortly after birth and continue to receive superannuation during periods of parental leave.

### **Provide women with an enforceable right to request flexible work arrangements**

101. The *Fair Work Act 2009* ('FW Act') provides employees with caring responsibilities who have worked with the same employer for at least 12 months and has a reasonable expectation of continuing work with their employer with the right to request flexible work arrangements such as part-time hours, a change to starting and finishing times or the ability to work from home.
102. Employers who receive a request must give a written response within 21 days saying whether the request is granted or refused and can only refuse a request on reasonable business grounds.
103. However the employer's decision is not subject to any appeal mechanism and in practice employees are routinely denied access to flexible work arrangements that could be accommodated at little or no additional cost to the business simply because their employer is not accustomed to or interested in providing flexible working conditions.
104. In 2014, the Australian Human Rights Commission recommended amending the Act to strengthen the implementation of the right to request a flexible working arrangement by:
- removing the qualification requirements in section 65(2)(a) (ie the requirements for 12 months continuous service);
  - introducing a positive duty on employers to reasonably accommodate a request for flexible working arrangements; and
  - establishing a procedural appeals process through the Fair Work Commission for decisions related to the right to request flexible working arrangements to ensure processes set out in the Act have been complied with.<sup>14</sup>
105. The ACTU strongly supports this recommendation. The lack of access to flexible working conditions and negative attitudes towards those who assume more flexible hours is a very significant barrier to women's workforce participation. Women with caring responsibilities are commonly forced to accept low-paid or insecure work in order to access part-time hours and flexible working condition or leave the workforce altogether. This has a detrimental impact on women's earnings, training opportunities and career progression with flow-on effect for retirement savings.
106. Modifying the right to request would help ensure that businesses take steps to accommodate a reasonable request for flexibility and enable women with caring responsibilities to remain in higher paid jobs.

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<sup>14</sup> AHRC, *Supporting Working Parents: Pregnancy and Return to Work National Review Report*, 2014.

### **Build on the existing Workplace Gender Equality Framework by extending reporting requirements to all businesses and pursuing increased granulation of ANZSCO occupational reporting categories.**

107. Undertaking a pay equity audit and setting targets to improve gender equity issues (such as quotas for new hires) has been shown to deliver results. The literature suggests that in order to be successful targets must be specific, challenging, accompanied by accountability and reward, aligned with an overarching diversity strategy and assisted at the same level as targets for budgets and performance.<sup>15</sup>
108. Unfortunately, less than a quarter of Australian organisations have undertaken a gender pay gap analysis. Of those who have, 22.1% identified the causes and only 10.5% created an action plan to address them.<sup>16</sup>
109. There is clearly a need for a broader engagement across all organisations to uncover the specific causes of the GPG and review existing strategies, plans and policies to address them.
110. The *Workplace Gender Equality Act 2012* provides a framework for monitoring gender equality and encouraging employers to remove barriers to women’s workforce participation and eliminate discriminatory practices.
111. The WGE Act requires non-public sector employers with 100 or more staff to submit an annual report to the WGE Agency. Employers are required to report against six gender equality indicators:
  - gender composition of the workforce;
  - gender composition of governing bodies;
  - equal remuneration between women and men;
  - availability and utility of employment terms, conditions and practices relating to flexible work arrangements;
  - consultation with employees on issues concerning gender equality in the workplace and
  - sex based harassment and discrimination in the workplace.
112. The ACTU recommends that reporting requirements be extended to apply to all businesses to ensure that all organisations are accountable with respect to gender equity issues.
113. The existing framework could also be further improved by requiring organisations to provide gender pay data at a more granular occupational level, consistent with the ANZSCO level 4 occupational categories. We note that a working group (which includes the ACTU) has been set up to review the current occupational categories.

### **Address existing gaps in anti-discrimination law**

114. Discrimination related to pregnancy and on return to work after parental leave is a systemic and widespread issue that contributes to women’s under-participation or withdrawal from the workforce.
115. A National Review conducted by the Australian Human Rights Commission in 2014 found that one in two (49%) mothers report experiencing discrimination in the workplace at some point and 32% of all mothers who were discriminated against during pregnancy went to look for another job or resigned. Further, almost one in five (18%) mothers indicated that they were made redundant or that their jobs were restructured, that they were dismissed or that their

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<sup>15</sup> Whelan. J & Wood. R, *Increasing gender diversity through targets with teeth*, 2013.

<sup>16</sup> WGEA, *Workplace Gender Equality Agency: Australia’s Gender Equality Scorecard*, 2014.



contract was not renewed during their pregnancy, when they requested or took parental leave, or when they returned to work.<sup>17</sup>

116. Among other matters the AHRC recommended amending the *Sex Discrimination Act 1984* to extend the discrimination ground of ‘family responsibilities’ to include indirect discrimination, and include a positive duty on employers to reasonably accommodate the needs of workers who are pregnant and/or have family responsibilities.
117. Though the direct impact on retirement incomes is likely to be fairly small, implementing this recommendation would help reduce the impact of discrimination on women’s workforce participation.

### **Make additional leave entitlements available to carers**

118. The FW Act currently provides access to 10 days paid personal/carers leave for employees except casuals. Personal/carers leave can be taken to care for or support a member of the employee’s immediate family or household who is sick, injured or has an unexpected emergency.
119. The ACTU believes that access to paid personal/carers leave should be extended so that it is available to all employees who care or expect to care for a dependant who reasonably relies on the employee for care and include a broad range of carer responsibilities not limited to illness, injury or emergencies.
120. We propose that:
  - The scope of personal/carers leave should include foster parents to ensure they have access to entitlements to provide the necessary care and support to foster children in their care;
  - Paid leave should be available to attend appointments associated with pregnancy, adoption, surrogacy and permanent care orders (including attending ante-natal appointments with a partner who is pregnant);
  - Palliative care leave should be established as a minimum standard; and
  - Unlimited unpaid carers/personal leave should be available where paid personal/carers leave has been exhausted.
121. We also advocate for increasing the amount of (dedicated) paid carer’s leave by 5 days.

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<sup>17</sup> AHRC, *Supporting Working Parents: Pregnancy and Return to Work National Review Report*, 2014.

## Conclusion

122. As the Australian Human Rights Commission noted in 2009 the inadequacy of women's retirement incomes 'is an injustice which, if left unaddressed, will only grow as a major social and economic problem'.<sup>18</sup>
123. Addressing this injustice requires a comprehensive policy response that addresses the underlying structural inequalities that produce and exacerbate the difficulties women face in accumulating sufficient savings to fund their retirement.
124. We urge the Committee to take into account the three pillars of retirement income - superannuation, the aged pension and private savings – and reiterate the importance of providing targeted financial support in combatting retirement income inequality.
125. In summary, the ACTU recommends:
- Increasing the superannuation guarantee rate to 12 per cent by 2019;
  - Retaining the low income superannuation contribution until a progressive superannuation system has been implemented;
  - Extending the SG entitlement to all employees regardless of age or earnings;
  - Boosting women's superannuation through a 2% increase in mandatory employer contributions;
  - Implementing a Government-funded annual superannuation payment for low income employees early in their working lives;
  - Ensuring that superannuation contributions to employees during period of parental leave, whilst on workers compensation and with respect to long term transfer payment recipients; and
  - Increasing the single age pension rate
126. In addition, we support measures that recognise and reward women's caring work and enable women to maximise their working hours. These include:
- Providing universal access to at least 15 hours per week of full-funded early education and care;
  - Extending the current paid parental leave to 26 weeks at the national minimum wage plus superannuation;
  - Providing women with an enforceable right to request flexible work arrangements;
  - Building on the existing Workplace Gender Equality Framework by extending reporting requirements to all businesses and pursuing increased granulation of ANZSCO occupational reporting categories;
  - Addressing existing gaps in anti-discrimination law; and
  - Making additional leave entitlements available to carers.

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<sup>18</sup>AHRC, *Accumulating poverty? Women's experiences of inequality over the lifecycle*, September 2009.

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