

# Paid parental leave

## New Zealand's situation

In New Zealand new parents can access four kinds of leave: paid parental leave (which is the only one that is paid), special leave, partner's leave, and extended leave. Mothers have both paid parental leave (14 weeks maximum) and special leave, which consists of up to 10 days for pregnancy-related medical care. New fathers have up to two weeks of partner's leave. Both parents can also share up to 52 weeks of extended leave, although paid parental leave is considered part of this. Parental leave policies can impact significantly on equality at work in terms of men's and women's participation in the labour market and how they share childcare responsibilities.

## How does New Zealand rate internationally?

The Center for Economic and Policy Research reviewed the national policies of 21 high-income economies, including New Zealand, in June 2008. It looked at two key aspects of parental leave policies: the level of support provided to parents; and the degree to which leave policies promoted an egalitarian distribution between mothers and fathers of the time devoted to childcare. The Center described these two elements as generosity and gender equality.<sup>103</sup>

A Gender Equality Index was devised on a fifteen-point scale, with 15 being top. New Zealand was 11<sup>th</sup> equal, just making it over half way with 8 points. Sweden earned the highest score at 13 points. While Australia was second to last in this assessment, it has subsequently changed its previous no-paid-parental-leave policy and introduced 18 weeks of paid parental leave with wider eligibility criteria than New Zealand. Several Nordic countries – Finland, Norway, Sweden, plus Greece, stood out in the study for strongest performance and best practice in generosity and gender equality. New Zealand scored poorly in the international comparison in relation to the portion of leave available for fathers and/or reserved exclusively for fathers.

## Eligibility in New Zealand

Paid parental leave (PPL) is a government-funded entitlement for a maximum of 14 weeks paid to eligible working mothers and adoptive parents when they take leave from their jobs to care for their newborn or adopted child under the age of six. Eligibility was extended to self-employed people in response to political pressure.

However, casual and seasonal workers are not covered and nor are people who have had more than one job within the eligibility period because they do not have the required continuous workplace attachment through employment by the same employer (s7(b) Parental Leave and Employment Protection Act 1987).

This means many low-income workers miss out. Rural Women New Zealand, for example, has drawn attention to the low proportion of women in agriculture, horticulture and forestry currently eligible for PPL.

Australia has got around the problem of continuous attachment to one employer in its new eligibility requirement by specifying *workforce* attachment in paid work for a specified number of months and hours worked, rather than *workplace* attachment.

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<sup>103</sup> Ray, R., Gornick, J.C. and Schmitt, J (2009) *Parental leave policies in 21 countries: Assessing generosity and gender equality*. Center for Economic and Policy Research. [www.cepr.net](http://www.cepr.net)

The human rights implications of the current limited eligibility criteria are obvious. Member of Parliament Hon. Nick Smith, wrote to the Commission on behalf of a woman in his Nelson electorate who worked as a meat grader for part of the year and as a food laboratory technician for the other months. She applied for paid parental leave when her son was born but was told she was ineligible. “Her situation is identical in every respect to others who are eligible for paid parental leave. She works full-time and for the full year. She and her partner are middle- income earners who have paid their taxes. It is unfair and wrong that she is ineligible simply because she has two employers and not one during the course of a year.” Dr Smith said her case wasn’t isolated in Nelson because of the number of seasonal workers.

### Discrimination complaints and enquiries

The Human Rights Commission collects data about the number and type of parental-leave complaints but does not specify whether complaints specifically relate to paid parental leave, except for when fathers have identified that their ground of complaint is that they are not entitled to paid parental leave in their own right. The data presented below therefore relates to all parental-leave complaints and enquiries.

**Table 35: Parental leave complaints and enquiries**

	Complaints	Enquiries	Total
<b>2007</b>	17	5	22
<b>2008</b>	13	5	18
<b>2009</b>	11	8	19
<b>2010</b>	12	10	22
	<b>53</b>	<b>28</b>	<b>81</b>

**Table 36: Major themes of parental leave complaints and enquiries**

	Complaints	Enquiries	Total
Termination of employment coinciding with leave	14	3	17
Questions and complaints about leave entitlements	11	15	26
Changed working conditions before or after leave	10	-	10
Men and parental leave	9	2	11
Flexible working arrangements after leave	3	1	4
Pressure to take early leave	2	2	4
Other	4	5	9
	<b>53</b>	<b>28</b>	<b>81</b>

### *Termination of employment coinciding with parental leave*

Complaints relating to job termination coinciding with parental leave include:

- Several complaints that jobs were not held while the complainant was on parental leave
- Complaints that roles were made redundant or employees were asked to resign after advising they would be taking parental leave
- Questions around entitlements to parental leave in redundancy situations

### *Leave entitlements*

Complaints relating to parental leave entitlements include:

- Employers not allowing employees to take parental leave or excessively delaying processing applications for parental leave
- Employers not paying parental leave
- Issues around other work benefits not continuing while on leave or prior to taking leave, such as pay increases, bonuses, annual reviews and annual-leave accruals

### *Changed working conditions*

Complaints about changed working conditions include changes made prior to the complainant taking leave, as well as changes made upon returning to work. Examples of these types of complaints are:

- Reinstated in a lesser role on return from parental-leave
- Hours not guaranteed on return from parental-leave
- Hours changed prior to going on leave or on return
- Job description changed prior to parental-leave

### *Men and parental-leave*

The main theme of complaints relating to men and parental-leave concerns different entitlements for men compared with women. Four complaints were received in the last four years on the issue of men not having primary entitlement to parental-leave. A further three complaints note differences in entitlements for men.

### *Who makes parental-leave complaints?*

Almost three quarters (74%) of complaints to the Commission relating to parental-leave were made by women who were pregnant or who had recently taken parental-leave.

A further 8% of complaints were made on behalf of pregnant women/women on parental-leave. Eight per cent of complaints were made by men (recent or soon-to-be fathers) who were directly affected by parental-leave entitlements. In the remainder of complaints it was unknown if the complainant was a recent parent, or in some cases their gender. One complaint was from an employer.

In 12 of the 28 enquiries about parental-leave there was no information about who was making the enquiry, including gender information. In the remaining 16 enquiries, 14 were from new mothers or pregnant women, one from a new father, and one from an employer.

## **What about fathers?**

Fathers understandably are concerned at the absence of paid parental leave for men in their own right in New Zealand. Three organisations, the Human Rights Commission, the Families Commission and the National Advisory Council on the Employment of Women (NACEW), have consistently argued for fathers to have access to paid parental leave. In its suggested priority improvements to parental-leave, NACEW said that a number of countries were

strengthening statutory leave policies towards increased flexibility of leave entitlements that supported family transitions and to support the access of fathers.<sup>104</sup>

A new PPL entitlement, ring-fenced for fathers and separate to the entitlements for mothers, was recommended by NACEW. “This would support greater choice for parents and gender equity in the home. It would assist working fathers to take leave irrespective of whether the mother had entitled to PPL, and support fathers to be more involved in the early care of their children.”

A Department of Labour evaluation in 2005/2006 of paid parental leave indicated from a survey of fathers that if there was PPL specifically for fathers, half would take it up<sup>105</sup>. Given the increasing societal expectations of fathers being involved in the early care of their children since then, this may be a conservative estimate.

The Families Commission recommended that an individual entitlement to paid parental leave for both mothers and fathers/partners be introduced with 14 weeks paid maternity leave for eligible mothers and four weeks paid paternity/partner leave for eligible fathers.<sup>106</sup>

In the *National Conversation about Work* conducted by the Human Rights Commission throughout New Zealand, male participants in different regions of New Zealand raised the unfairness of the lack of entitlement to Paid Parental Leave in their own right.

One father in the Bay of Plenty said that two weeks paid parental leave on the birth of a child for fathers would be great. He also proposed six months PPL for mothers followed by six months PPL for fathers. This would enable mothers to return to work and for fathers to be primary caregivers early in a child’s life.

## Future action

- Change the eligibility for paid parental leave to provide for workforce attachment criteria that will extend paid parental leave to casual, seasonal workers and people with more than one job.
- Provide paid parental leave to fathers as primary entitlement holders
- Review the length of paid parental leave with the aim of progressive improvement as New Zealand’s economy improves.

<sup>104</sup> NACEW (2008) *Priority improvements to Parental Leave*, National Advisory Council on the Employment of Women, Wellington.

<sup>105</sup> Department of Labour (2007) *Parental leave in New Zealand:2005/2006 Evaluation, May 2007*, p61.

<sup>106</sup> Families Commission (2007) *It’s about time: towards a parental leave policy that gives families real choice*. Research Report No 3/07.