



28th July 2015

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra
ACT 2600

Dear Secretary,

I am writing to you in relation to the 'Fairer Paid Parental Leave Amendment Bill 2015' which I understand is now being considered by the Community Affairs Legislation Committee. I am writing to you in my capacity as a Board member of Permanent Care and Adoptive Families, and also as a permanent care parent to two children, now aged 11 and 9 years old.

Permanent Care and Adoptive Families (PCA Families) is a non-profit support service based in Melbourne, working towards better outcomes for children in permanent care and adoption, through delivering information, education, training, telephone advice and peer support services. We are a member-based organisation, with currently over 850 members. Programs and services are based on our unique understanding of the lived experiences and needs of children, parents and families formed through permanent care and adoption.

Overview

We are seeking equal access to Paid Parental Leave (PPL) for those carers who welcome a child into their home under a permanent care order (PCO). We argue that where the carer is required to be home full time for the first 12 months of a permanent care placement, as many permanent carers are, then these carers should be entitled to the 18 weeks of PPL, just as any new biological or adoptive parent is. Throughout this letter I refer to those carers who have children in their family via a Victorian PCO as permanent care parents. We believe that the review of PPL would benefit from considering Victoria's case individually, given that PCOs have been operating here since 1992.

Each year, over 200 permanent care orders are made in Victoria, for children who are not able to live with their birth family due to issues of abuse or neglect. These are children whom the Children's Court of Victoria has deemed unsafe to remain with their birth parents, and so have been removed permanently from living with them. These orders have been available since 1992, and are very similar in effect to a 'Victorian adoption order'. The people named in the order to care for the child become that child's legal guardians, as they have "custody and guardianship to the exclusion of all other persons" (*Children, Youth and Families Act 2005* (Vic), s.321).

Parenting responsibilities pass from the birth parents, (or the state, where the state has been the legal guardian of a child in foster care), to these permanent care parents. As you may be aware, guardianship is not transferred to foster carers with a child in foster care, so responsibility for the child's long term welfare remains with birth parents, or the State of Victoria.

A personal story

I would like to give a brief account of my own family's experience, to highlight the type of situation which we believe should be redressed. In my own family's case, my son Mark * was placed with us at the age of 5 months. He had been living with foster carers for the first few months of his life, having never lived with his birth mother. We had applied and been accepted on to the Victorian Permanent Care Program, in order to open our home to a child on a permanent basis. We did not apply to be assessed as foster carers, as we were not seeking to be temporary carers for a child.

The permanent care assessment and placement agency required one carer to be home full time for at least the first 12 months of a placement, and in our family this was me. I was therefore required to cease work for 12 months (although it turned out to be longer than this). I was employed at the time as a support worker in a non-profit community service organisation. This organisation had no employer-funded PPL, and although I was able to access 12 months of 'parental leave' upon the placement of Mark with us, this was entirely unpaid leave.

The first 12 months of Mark's placement was a time of great challenge for the entire family, and myself in particular, as we spent every minute of every day together getting to know each other and forming the bonds of attachment. As in any family, it was extremely important to have this time and to have the opportunity to develop a loving connection with our new son. In the case of permanent care (or adoption) the time to develop this bond is arguably even more important for our children's development, than for a child at the same stage in a natural family. This is because we are beginning the process of bonding and attachment 'from scratch'—from day one of the placement—without the benefit of any pre-

natal bonding, or the natural mutual closeness that (generally) develops from birth onwards between a child and their parents. The transition period for a child moving from one primary carer to another, is of course absolutely critical to ensuring the child becomes securely attached to the new family.

Whilst I fully appreciate the reasons why it is important for a permanent care parent to be home full time and the opportunity to experience the full responsibilities of being a stay-at-home parent, it was also a time of great financial stress for our family. To live on an enforced single income (and in our case my wife also had a similarly low paying job in the community service sector) limits the choices that the family has, and this greatly impacted on our quality of life during this time. Given my lack of any employer-provided PPL, the minimum wage PPL scheme would have been enormously beneficial to our family at that point in time.

A few years later we applied again to the Permanent Care program, and our daughter Zoe* was placed with us at the age of 3. Again I was required to be home for the first 12 months of placement. Zoe had been living with foster carers for the previous two and a half years, having left her birth mother's care in the first few months of her life. Zoe's birth parents had been involved with Child Protection for some time prior to her birth, due to concerns about alcohol and other drug misuse and family violence. As numerous studies have shown, these issues can leave a lasting impact on a young developing mind.

*“Most of us would understand that children who have been abused or neglected may exhibit fear, sadness, difficulties with schoolwork, bedwetting, nightmares, self-harming behaviours and other expressions of distress and trauma. However, some children express these effects differently. What is less well known is that children, especially those who have suffered **early** abuse and neglect, may show less apparent but ironically more damaging signs of trauma. These less apparent but more damaging effects of trauma can include:*

- *Difficulty in making deep attachments to others*
- *Difficulty in feeling guilt about wrong doing*
- *Difficulty in feeling empathy for others in distress*
- *Difficulty in expressing or experiencing feelings*
- *Anti-social behaviours and attitudes*

These types of “traumas” effects are more difficult to understand because they are less obvious than the “post traumatic” symptoms of fear, anxiety and sadness that are easily seen. However, these types of trauma effects represent damage at deeper levels of the child's personality development, and as such may be harder to reverse than the more usual “post traumatic” symptoms.”

(Single, T. (2005). *Long Term Foster Care for Abused and Neglected Children: How Foster Parents Can Help in Healing the Trauma*. Retrieved from http://www.pcafamilies.org.au/uploaded-files/trauma-in-f-care_1326689389.pdf)

Zoe had a global developmental delay and a number of challenging behaviours related to her traumatic background (e.g. damaging property, verbal and physical violence). Therefore, time spent at home was again crucial to Zoe's attachment to, and development within, our family.

Since both Mark and Zoe's early months with us we have continued to need the services of various allied health professionals. For further information, I have attached an appendix outlining some of the additional financial costs for the family which we have incurred in relation to Zoe's placement in particular.

I hope my own experiences will help to show there are very sound reasons why permanent care parents need to be at home for a lengthy period. What is much less clear to us at PCA Families is why these permanent care parents should not be entitled to the same basic Paid Parental Leave as any other parent with a new child.

** Names changed to comply with requirements of Children, Youth and Families Act 2005 (Vic), s.534.*

PCA Families response to the Department of Social Services Paid Parental Leave scheme: Review Report, June 2014

I would now like to make reference to the June 2014 Review Report of the Paid Parental Leave scheme by the Federal Department of Social Services (DSS), and in particular the sections that discuss PPL for permanent carers, because permanent carers are named as being specifically excluded from the scheme (*DSS Paid Parental Leave scheme: Review Report, p. 9*).

The Review Report argues that permanent care is more closely aligned to foster care than adoption, in regards to eligibility for PPL (p.70, permanent carers and foster carers). They list reasons why they believe permanent care is different to adoption, some of which seem irrelevant to an argument about PPL for very young children. PCA Families believes that in reality permanent care is in fact more closely aligned to adoption, and it is therefore worth responding to the Review Report's findings systematically.

DSS Paid Parental Leave Scheme, Review Report, page 70-71:

"Non-parent carers who take on the care of a child under a foster care arrangement are specifically excluded from being eligible for Parental Leave Pay. This decision was based on the Productivity Commission's view that foster parents should not be eligible for PLP because they receive existing state and territory foster carer payments. The decision to also exclude permanent carers from eligibility for PLP was based on a range of factors that, on balance, indicated that permanent carers are more similar to foster carers than adoptive parents. The factors taken into account include:

- *Permanent care arrangements are not consistent across Australia in the same way that Adoption arrangements are.*

The arrangements for permanent care in Victoria are in accordance with the provisions of the *Children, Youth and Families Act 2005* (Vic). Regardless of other states' arrangements for achieving permanency, Victoria's permanent care system should be recognised for what it is: an alternative form of 'adoption' which provides loving secure families for children unable to live with their birth family. Like adoption, children in permanent care families are accepted as full members of the family for life and permanent care parents assume full parental responsibilities, unlike in foster care where the children are temporary (albeit much loved) guests who may return to their birth family. In foster care, the state or birth parents retain guardianship, and therefore, the foster carers do not hold guardianship, or all of the responsibilities for the long term welfare of the child that this entails. This makes Permanent Care fundamentally aligned with adoption, rather than foster care.

- *"Unlike adoptions, a permanent care order transfers custody and guardianship to the permanent carer only until the child turns 18 years old."*

This is correct; however the relationship between permanent care parents and their 'permanent care' children does not stop at the age of 18 years. It continues in the same way as natural or adoptive parents' relationship does when their child becomes an adult. Even though we are under no illusion that we are Mark's biological parents, he will not cease to be our son when he turns 18. In any case, PCA Families do not see the relevance of this to PPL eligibility; PPL provides support for new parents with very small children or babies, it does not provide support for parents with adult children.

- *"A permanent care order does not require the consent of the birth parents."*

Again, this is true, but PCA Families do not see how this is relevant to an entitlement for PPL. PPL is provided to support parents when they welcome a new child into their family. Permanent care parents have no role in the decision to make a PCO; this is determined by the Children's Court. Would PPL be denied to adoptive parents, in the very small number of adoptions that might be made without the consent of birth parents (for example, in cases of extreme physical or sexual abuse by birth parents)?

- *"A permanent care order can be revoked by the court."*

This is true and may occur in a small minority of cases, but again PCA Families believes this is irrelevant to eligibility for PPL. For example, it is possible for *any* birth or adoptive parent at some point to become involved with child protection and to have their child removed from the family; does this mean they should have to pay back their PPL?

- *“Unlike adoptive parents, permanent carers remain eligible for state financial assistance for a child who remains in their care, until the child is aged 18 years.”*

This is true, and seems to be the essence of the Review Report’s arguments around eligibility for PPL for permanent care parents. ‘Permanent care’ parents in most jurisdictions are paid carer reimbursements in the same way that foster carers are, while adoptive parents generally are not (although in NSW our understanding is that there is a lump sum payable to those parents who adopt a child from the foster care system).

However, in Victoria at least, Carer Reimbursements for PC parents are not intended to be a ‘wage’ and are not paid at a level that could be interpreted as such. For example, currently our carer reimbursement rate for Zoe is \$152.06 per week, in comparison to the national minimum wage of \$656.90 per week. Clearly, any carer reimbursements that permanent care parents are entitled to do not serve to replace the 18 weeks of paid leave which PPL provides.

The Victorian Department of Human Services Child Protection Practice Manual (retrieved from <http://www.dhs.vic.gov.au/cpmanual/practice-context/benefits,-entitlements-and-resources/1096-benefits-entitlements-and-resources/3>) states that ‘[t]he reimbursement to caregivers is a contribution to the ordinary costs for caring for a child’. The reimbursement is non-taxable, and as such, does not affect entitlements to Centrelink payments. PCA Families believe carer reimbursements should similarly not affect entitlement to PLP.

Furthermore, the Review Report acknowledges that Victoria’s Permanent Care Program makes particular expectations of permanent care parents; when it states (p.71):

“There are some similarities between permanent care order arrangements and adoption arrangements. For example, under the Victorian Permanent Care Program which has operated since 1992, there is an expectation that the primary carer will be out of the workforce for around 12 months to care exclusively for the child, although there may be some flexibility for children of school age. Supervision is provided for up to two years before a permanent care order is granted by the courts.

Victoria reported in 2011 that around 40 per cent of permanent care orders a year were for children whose placement with their new carer was under the Permanent Care Program. That is, it was known at the time of placement that provided the arrangement was found to be suitable, a permanent care order would be granted in the future.”

It is these PC parents in particular who we believe should be entitled to receive PPL.

Victorian Department of Humans Services view on permanent care

In addition to the points made above in relation to the Review Report on PPL, I would like to briefly review the Victorian DHS's own information about the extra challenges that permanent care families face.

The Victorian DHS website makes a clear distinction between permanent care and foster care. (*Victorian DHS website DHS Adoption and Permanent Care frequently asked questions, retrieved from <http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/adoption-and-permanent-care/adoption-and-permanent-care-frequently-asked-questions>*):

“Any child that comes into your family needs your love, care and protection. However children in permanent care may need more of your time and input. In many cases they’ve grown up without the sense of security and stability that most of us take for granted.

These children are placed in permanent care only when the Department of Human Services makes a decision that they cannot return to their birth family. These decisions are only ever made in the best interests of the child. After a period of time, a permanent care order is made by the Children’s Court, granting custody and guardianship to the new family.

The relationship is secure, nurturing and, above all, permanent. It’s one in which parents make a lifelong commitment to a child.

Foster care is not intended to be permanent. Children are initially placed in foster care after they leave the care of their birth family. When children are placed in foster care, it is expected that they will return home.”

Victorian DHS also indicates that children in a permanent care placement may need more time and support from their care givers than other children, especially at the start of the placement (*DHS Adoption and Permanent Care Lifelong Issues, retrieved from <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/reports-publications/adoption-and-permanent-care-media-and-student-resource-kit/adoption-and-permanent-care-lifelong-issues>*).

“How does adoptive and permanent parenting differ from biological parenting? While the rewards of parenting are very similar, there are additional complexities for parents of a non-biological child. There may be complications with bonding and attachment. For example, with infant placements, the bonding and attachment process may be complicated by the long waiting period prior to placement, the lack of opportunity to form a relationship with the child before birth, and possible anxiety about the legal security of the relationship.

Bonding and attachment is further complicated when an older child is placed. Older children may have difficulties in developing relationships as a result of past experiences (such as abuse or neglect) that limit their ability to trust and relate to caregivers.”

Furthermore,

"...Permanent care can be particularly demanding; these children come from situations that have sometimes been quite harrowing. They may have had a series of caregivers, and they may take a while to attach to you." (Retrieved from <http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/adoption-and-permanent-care/adoption-and-permanent-care-frequently-asked-questions>).

For these reasons, it is even more important that permanent care parents have the time at the start of the placement to create the loving, nurturing relationships that our children need. Paid Parental Leave would enable permanent care parents the best opportunity to create a secure attachment with the new child in the family.

Conclusion

PCA Families believes that permanent care parents, who have a child placed under the Permanent Care Program and are required to be at home for the first 12 months of the permanent care placement, should be entitled to claim Paid Parental Leave in the same way as adoptive or natural parents.

Permanent care parents make a huge commitment to care for a child who is not biologically theirs. They do so because they wish to welcome a child into their family and provide a loving, nurturing home for them. PCA Families believe our members deserve the same rights to PPL as parents who welcome a new member of their family through birth or adoption. We call on the Victorian and Federal Governments to recognise that we are providing permanent alternative families for children who cannot live with their birth families. As such, when we need to be at home with our children for those first crucial months, we should be entitled to the same assistance as all other new parents.

Yours sincerely,



Dan Barron
Permanent care parent
Director
Permanent Care and Adoptive Families



Chris Lockwood
President
Permanent Care and Adoptive Families

APPENDIX: Costs for permanent care families - a case study

A description of some of the additional costs to our family, incurred when we welcomed our third child into the family (and second permanent care placement).

Pre-approval as carers

Before we were approved as prospective permanent care parents we had to add a room to our house, as we were told point blank that we would not be approved for a third child, in our (then) two bedroom house. If it had been up to us, we would have had the three kids all sharing initially, and then looked for more space later.

Cost to create an extra room in the house (putting up partition walls etc.) approximately \$2,000.

Post approval

After being approved, and while we were sitting on the Central Resource Exchange waiting list, we purchased a larger car - a minivan - in anticipation of a larger family.

Costs: approximately \$10,000.

Post placement but before legalisation

After placement, but prior to the PCO being legalised at Children's Court, there was an initial period of 18 months of unpaid parental leave. The placement agency required me to be at home full time to allow for bonding and attachment and obviously I had to forgo any income during this time. I had zero paid parental leave through my employer (a non-profit community service organisation). Whilst I appreciated the need to provide a long period of time for attachment to occur, it severely affected our ability to provide for the family as we would have liked.

Cost to not receiving PPL: approximately \$11,824.20.

Also after placement but before legalisation

Our daughter arrived at our house with a prior diagnosis of 'global developmental delay' but had not received any specialist supports whilst in foster care, and it was apparent early in the placement that she was very behind in her functional language skills. Although we were linked in to an Early Childhood Intervention Service, there was a long waiting period for their in-house speech therapist so we sourced a speech therapist ourselves, attending fortnightly sessions at one point, then monthly thereafter. Our daughter had a number of challenging behaviours including aggressive outbursts, self-harm and damaging household and personal items (often from throwing or kicking them) so we sought paediatric and psychological support. We had paediatrician appointments monthly at one point and quarterly thereafter. We found a child psychologist experienced in working with children with 'disrupted attachments' and we saw her fortnightly in several blocks of time, for extended periods. A Mental Health Care Plan, which allows for a maximum of 10 visits per year at a

reduced cost, but we were seeing the psychologist much more often, and also there was always a gap between the rebate and Medicare payment.

Costs: approximately \$1,000-3,000 per year.

Following legalisation of the PCO

After legalisation (which occurred 5 years after she joined our family), we have continued to need the services of a child psychologist approximately every three months and paediatrician visits every six months. Our daughter's behaviours have continued to be challenging for us as a family, and the ability to talk through things with the child psychologist has been crucial to preventing a placement breakdown. We also initiated a neuro-psychological assessment when she was 6 years old, to ascertain if she needed or was eligible for more intensive assistance at school (she missed out by 3 IQ points).

Costs: approximately \$600 per year.

Respite

In relation to any psychological costs to our family as a whole, due to the unusually high level of daily conflict in the household over an extended period; these are of course very difficult to quantify. However, the opportunity to access some kind of respite, both for ourselves and for our daughter, would have been very helpful to decrease some of the stress that inevitably arises when the same problematic behaviours occur day after day. For us, given the nature of our daughter's behaviours, our own extended family were not as available to provide this respite as they might otherwise have been. I imagine this is not an uncommon experience for other permanent care families whose wider family may struggle to understand and deal with the specific problems of our children. The opportunity for a weekend break, on a regular basis, provided by skilled carers would be highly beneficial. Fortunately for us, we remained in contact with the prior foster carers, and in time they have become like another set of grandparents, providing the occasional weekend respite break (amounting to approximately 1 week per year).