

FAIR WORK COMMISSION

Fair Work Act

s.156 – 4 Yearly Review of Modern Awards

Family Friendly Working Arrangements (AM2015/2)

Statement of Professor Siobhan Austen

1. My name is Siobhan Austen. I am a Professor at Curtin University, Bentley Campus, in Western Australia. I am a member of the School of Economics and Finance in the Curtin Business School, and Director of the Women in Social and Economic Research (WiSER) research cluster.
2. Prior to this, my roles have included Head of Department of Economics and Property and Director of the Centre for Applied Economic Research at Curtin.
3. I hold a PhD in Economics from the University of Melbourne. I have extensive expertise in the economic analysis of the causes of women's social and economic disadvantage, including in the areas of population ageing, retirement incomes and labour force participation.
4. I am on the editorial boards of Journal of Economic Issues, Feminist Economics, and Economics and Labour Relations Review. I am a member of the Australian Bureau of Statistics' Gender Statistics Advisory Group and the Work and Family Roundtable.
5. A copy of my curriculum vitae including a full list of my research publications is attached to this Statement and marked **Annexure SA-1**.
6. I was requested by the Australian Council of Trade Unions to prepare a report for the Fair Work Commission proceedings relating to Family Friendly Work Arrangements. Attached to this Statement and marked **Annexure SA-2** is the letter of instructions I received from the Australian Council of Trade Unions.
7. I subsequently prepared a report in accordance with the letter of instructions, a copy of which is attached to this Statement and marked **Annexure SA-3**, dated 5

May 2015.

8. I have read, understood and complied with the Federal Court of Australia Expert Evidence Practice Note (GPN-EXPT) in the preparation of my Report.
9. The Report reflects my specialised knowledge gained through training, study, research and experience as outlined in this Statement and Annexure SA-1.

Signed:

A black rectangular redaction box covering the signature of Professor Siobhan Austen.

Professor Siobhan Austen

5 May 2017

Dr Siobhan Eileen Austen (PhD, MEc, BEc)

Professor of Economics

Director of Women in Social and Economic Research (WiSER)

School of Economics and Finance

Curtin Business School

Curtin University, Western Australia

Personal Details:

Name:	Siobhan Eileen Austen (previously Shevaun Eileen Brophy)
Contact Details:	c/o School of Economics and Finance Curtin Business School, GPO Box U 1987, Perth Mobile: [REDACTED] Email: Siobhan.austen@cbs.curtin.edu.au
Nationality	Australian
Academic Qualifications	Doctor of Philosophy in Economics, Melbourne University, Melbourne, Australia; 2001; Field of Specialisation: Labour Economics; Thesis Title: <i>Culture and the Labour Market</i> . : Master of Economics (by research), Curtin University, Australia; 1997; Field of Specialisation: Labour Economics; Thesis Title: <i>Redundancy Protection</i> . Bachelor of Economics , University of New England, Armidale, Australia; 1983.

Summary of Key Skills and Achievements with a focus on Expertise in Gender Economics

- Siobhan Austen is Professor of Economics and Director of the Women in Social and Economic Research (WiSER) group in the Curtin Business School at Curtin University in Western Australia (WA).
- An Economist and Educator, she holds a Bachelor's Degree in Economics from UNE, a Master's degree in Economics from Curtin, and a PhD in Economics from University of Melbourne, Australia.
- Currently involved in research projects relating to women's retirement incomes, gender budgeting, intra-household resource allocations and workforce participation, Dr. Austen is a recognised leader of gender economic analyses of key social and economic policy issues. She is an invited member of the *ABS Gender Statistics Advisory Board* and the *Women and Family Policy Roundtable*
- Since 2003, Siobhan has published 4 authored books, 10 research book chapters, 32 journal articles, in addition to numerous government reports and media presentations.
- In 2014 Siobhan joined the editorial boards of the internationally prestigious *Feminist Economics* and the *Journal of Economic Issues*. She was co-editor of *Australian J. Labour Economics* from 2000 through to 2016.
- Siobhan has successfully led a number of Nationally Competitive Grant (NCGs) applications, including an ARC Discovery Project on intra-household inequality. Siobhan has led or participated in all of the NCGs relevant to her field of research and secured over AUD \$1.78m in funding since 2003.
- Siobhan has successfully taught and managed the delivery of a wide range of economics units to undergraduate and post-graduate students. Her teaching experience spans large lecture (400+) formats to small tutorial settings. Since 2003, Siobhan has taught in a total of 27 economics units, with a total enrolment of 6,482 students and achieved a median eVALuate (student satisfaction) score of 90%.

Employment History:

2016- present

2003 - 2016

Professor of Economics, Curtin University
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Associate Professor of Economics,

1998 - 2002	Curtin University Lecturer in Economics, Curtin University
1989 - 1998	Associate Lecturer in Economics, Curtin University
1986 - 1988	Principal Research Officer, Inter-State Commission, Canberra
1984 - 1986	Senior Research Officer, Bureau of Transport Economics, Canberra

Leadership- Management Roles:

2015 – 2016:	Head of Department of Economics and Property Studies , School of Economics and Finance (SEF), Curtin University. <u>Key Responsibilities:</u> i) Develop and implement strategic direction for the Department; promote the continued development of the Department's strong research culture; ii) Drive innovation and improved performance in the teaching and learning program; iii) Identify and progress the development of new high quality post-graduate programs; iv) Engage with students and industry to ensure programs respond to their needs. Foster a collegial working environment in the School; v) Participate in the SEF executive to develop a shared vision and alignment with CBS and University
1998 – Present:	Director of the Women in Social & Economics Research (WiSER) unit, Curtin University <u>Key Responsibilities:</u> i) Lead the development of a vibrant and active research group to deliver high-quality gendered analyses of economic and social policy issues; ii) Develop the public profile and strong reputation of gendered economic research at Curtin; iii) Promote and facilitate the recruitment of high-quality PhD students; iv) Lead and facilitate the achievement of research income and high-quality publications; v) Monitor, manage and report on the unit's financial and research performance against KPIs
2009 – 2014:	Director of Centre for Research in Applied Economics (CRAE), Curtin University <u>Key Responsibilities:</u> Foster high-quality applied economics research at Curtin by supporting and facilitating the work of the economic researchers of the University; manage the Centre's secretariat to ensure research support for researchers, maximise the public profile and impact of their work and manage a seminar and workshop series; monitor, manage and report on the financial position of the Centre, and its performance against set KPIs.

Major Internal Service Roles

- Elected member of the **Curtin University Academic Board**, 2015-17.
- Member of CBS R&D Committee, 2010-14.

Major External Service Roles**Editorial board member:**

- *Feminist Economics*, for a 3 year term, starting January 2015.
- *Journal of Economic Issues*, for a 3 year term, starting January 2015.
- *Economics and Labour Relations Review*

Invited discussant:

- International Association for Feminist Economics/ Union of Radical Political Economy joint session at the *American Economic Association Conference*, Boston, January 2015.
- Association for Evolutionary Economics session at the *American Economic Association Conference*, Boston, January 2015.
- Association for Evolutionary Economics symposium at the *Society for Heterodox Economics Conference*, Sydney, December 2014.

Awards

- Curtin Business School Researcher of the Year, 2016

Selected Publications

- Austen, S.**, Jefferson, T., Lewin, G., Ong, R. and Sharp, R. 2015. "Recognition: Applications in Aged Care Work", *Cambridge Journal of Economics* first published online August 31, 2015 doi:10.1093/cje/bev057
- Austen, S.** and Mavisakalyan, A. 2015. "Constitutions and the Political Agency of Women", submitted to *Feminist Economics* 22(1): 183-210
- Austen, S.** Sharp, R. and Hodgson, H. 2015. "Gender Impact Analysis and the Taxation of Retirement Savings in Australia", *Australian Tax Forum* 30(4): pp. 763-782
- Austen, S.**, Jefferson, T., Ong, R., Sharp, R. and Lewin, G. 2015. "Can I Afford To Leave?: How Family Care Needs Affect Women's Employment Decisions in the Presence of Financial Strain" *Journal of Industrial Relations*. DOI: 10.1177/0022185615590906
- Austen, S. E.**, T. M. Jefferson, and V. H. Thein. 2014. "Gendered social indicators and grounded theory." In *Grounded Theory and Situational Analysis*, ed. Adele E. Clarke and Kathy Charmaz, 175-190. London, USA, India & Singapore: SAGE Publications Ltd.
- Austen, S.** and Jefferson, T. 2014. "Economic analysis, ideology and the public sphere: insights from Australia's equal remuneration hearings" *Cambridge Journal of Economics*. For a special edition on 'Equal Pay: Fair Pay? A Forty-year Perspective. doi:10.1093/cje/beu042
- Austen, S.** , T. M. Jefferson, and R. Ong. 2014. "The Gender Gap in Financial Security: What We Know and Don't Know about Australian Households." *Feminist Economics* 20 (3): 25-52.
- Ong, R., T. M. Jefferson, G. Wood, M. Haffner, and S. **Austen**. 2013. *Housing Equity Withdrawal: Uses, Risks, and Barriers to Alternative Mechanisms in Later Life*. Australia: Australian Housing and Urban Research Institute.
- Austen, S.**, M. Costa, R. Sharp, and D. Elson. 2013. "Expenditure Incidence Analysis: A Gender-Responsive Budgeting Tool for Educational Expenditure in Timor-Leste?." *Feminist Economics* 19: 1-24.
- Austen, S.** 2003. *Culture and the Labour Market*, Cheltenham, Edward Elgar.

A full list of publications is included at the end of this document.

Recent Grants:

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|---------|--|
| 2016-19 | <i>Inside the black box: Intra-household resource allocations of older couples</i> , Australian Research Council Discovery Project DP170103297, with Astghik Mavisakalyan (Curtin), Helen Hodgson (Curtin), Rhonda Sharp (UniSA), Susan Himmelweit (Open University) and Ross Taplin (Curtin): \$326,000 [Principal Investigator] |
| 2013-15 | <i>How Does the Transition from School to Work Affect Later Lifetime Prospects (Indonesia)</i> , AusAID Development Research Award 66398, with Ruhul Salim and Helen Cabalu-Mendoza: \$731,500 [Co-Investigator] |
| 2011-13 | <i>Missing Workers: Retaining Mature Age Women Workers to Ensure Future Labour Security</i> , Australian Research Council Discovery Project DP110102728, with Rachel Ong (Curtin), Therese Jefferson (Curtin), Rhonda Sharp (UniSA) and Gill Lewin (Curtin): \$275,000 [Principal Investigator] |
| 2012-13 | <i>Housing Equity Withdrawal: Uses and Risks of Alternative Options for Older Australians</i> , AHURI Research Grant 12/PRO/81004 , with Rachel Ong, Gavin Wood (RMIT), Marietta Haffner (Delft) and Therese Jefferson \$245,096 [Co-Investigator] |
| 2010-11 | <i>Labour Market Participation in Canada and Australia: The Role of Post-Secondary Education</i> , Foreign Affairs and International Trade Canada / International Council for Canadian Studies grant , with Rachel Ong (Curtin), Fiona MacPhail (UNBC) and Sylvia Fuller (UBC): \$9,500 [Principal Investigator] |
| 2009 | <i>Post-Secondary Education in Canada and Australia</i> , National Centre for Vocational Education Research grant , with Fiona MacPhail (UNBC): \$45,000 [Principal Investigator] |
| 2007-09 | <i>Budgeting for Women's Economic Empowerment: The Practices of and Potential for Gender Responsive Budgeting in the Asia-Pacific Region</i> , AusAID ADRA Grant 44879, with Rhonda Sharp (UniSA) and Diane Elson (Essex): \$199,138 [Co Investigator] |

Commissioned Reports for Government:

- “*Methods of Setting Pay and the Gender Pay Gap*” (2015) for the Fair Work Commission, Melbourne.
- “*Gender Pay Differentials in Low-Paid Employment*” (2008) for the Australian Fair Pay Commission.
- “*Women’s Health & Wellbeing Strategy Research*” (2006) for the Department of Human Services.
- “*Adjusting the Focus: Perceptions of Life, Work and Saving for Retirement*” (2005) for the WA Offices for Women’s Policy and Seniors Interests.
- “*Paving the Way for Older Women in the Workforce*” (2005) for the Department of Innovation, Industry and Regional Development.

Recent Media Articles and Interviews

- Articles in *The Conversation*:
 - ‘Why neither party should ignore gender in this election’, *The Conversation*, May 2016: <http://theconversation.com/why-neither-party-should-ignore-gender-in-this-election-57551>
 - ‘Nobel laureate Douglass North’s work leaves a strong legacy for economics’, *The Conversation*, Dec 2015: <https://theconversation.com/nobel-laureate-douglass-norths-work-leaves-a-strong-legacy-for-economics-51468>
 - ‘We need to talk about dirty work and what it’s worth’, *The Conversation*, Nov 2013: https://theconversation.com/we-need-to-talk-about-dirty-work-and-what-its-worth-19072#comment_264401
 - ‘The other gender equality gap Australia needs to talk about’, *The Conversation*, Nov 2014: <https://theconversation.com/the-other-gender-equality-gap-australia-needs-to-talk-about-34276>
- Other media coverage:
 - Panel discussion on differences in superannuation between men and women hosted by Tony Delroy, 702 ABC Sydney, Sydney (Nightlife), 31 May 2016
 - Drury, B. (2014) “Clearing financial hurdles of the single life” *The Age*, October 15, 2014 downloaded from <http://www.theage.com.au/action/printArticle?id=62294217> accessed 15 October 2014
 - Evatt Foundation (2014) “Inequality: Latest Research” downloaded from <http://evatt.org.au/news/inequality-latest-research.html> accessed 1 October 2014
 - Wade, M. (2014a) “Lower pay, lower wealth a woman’s lot in life” *The Age* September 24, downloaded from <http://www.theage.com.au/action/printArticle?id=61450845> accessed 29 September 2014.
 - Wade, M (2014b) “Men in relationships are super winners” *The Age*, September 28, 2014 downloaded from <http://www.theage.com.au/comment/men-in-relationships-are-super-winners-20140927-10lpcv.html> accessed 29 September 2014
 - Wade, M (2014c) “Rich man, poor woman: the gender wealth gap widens”, *Sydney Morning Herald* November 09, 2014 downloaded from <http://www.smh.com.au/national/rich-man-poor-woman-the-gender-wealth-gap-widens-20141108-11igay.html> accessed 11 November 2014
 - Lucia Osborne-Crowley (2014) “Australian men are wealthier than women at every age”, *Women’s Agenda*, November 11 2011

Invitations and Keynotes:

- **Funded participant of Academy of Social Science Australia (ASSA) and other policy workshops:**
 - CEPAR workshop, ‘Mid-life Employment: Determinants, Consequences, and Policy’, UNSW, July 2016
 - ASSA/CSRI workshop, ‘Retirement Income Adequacy and Interactions with Aged Care and Health Care’, ANU, April 2016
 - ASSA workshop, ‘Gender Equality in Australia’s Tax-Transfer System’, ANU, November 2015
 - ASSA workshop ‘Communicating the Gendered Impacts of Economic Policies’, UNSW, 2006
- **Invited member of key national policy groups:**
 - Member of the Australian Bureau of Statistics’ *Gender Statistics Advisory Group* since 2009 (This high-level academic and policy group is the key source of advice for the Australian government on the design and implementation of gendered economic and social indicators).

- Member of the *Work and Family Roundtable* since 2012. (This roundtable is comprised of academics from leading Australian universities and contributes Election benchmarks)
- **Keynotes and invited lectures and expert witness statements:**
 - "Improving equity in Australian retirement income: can we learn from other countries' experiences with social insurance?", 2015 *Academy of Social Sciences Annual Symposium "Reinventing the Welfare State? The Future of Social Insurance in Australia and Internationally"*, Canberra, 17 November 2015.
 - "Retirement savings, tax concessions and assets", "*Where Next for the Income Tax*" conference, ANU, 27-28 April 2015
 - "The Australian labour market and the role of migration", keynote address to the *Migration Institute of Australia's Annual Conference*, October 29-30, Perth 2015
 - "The potential uses of Elinor Ostrom's Institutional Analysis and Design (IAD) framework for feminist economic analysis" invited and sponsored paper at the *Association for Evolutionary Economics* symposium, Sydney, December 2014.
 - Expert witness in the Fair Work Australia (2011) Decision: Equal Remuneration Case, Australian Municipal, Administrative, Clerical and Services Union and others (C2010/3131)
 - "Paving the way for older women in the workforce" keynote address to the *2005 Premier's Women's Summit*, Geelong, May.

PhD and Masters Supervisions:

Siobhan was nominated for a **Guild Excellence in Teaching Award** for the academic year of 2014 in the category of Postgraduate Research Supervisor.

Completed PhD supervisions:

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|------|---|
| 2016 | <ul style="list-style-type: none"> ● Nurhidayati: <i>Work-Life Conflict and Social Support in Java, Indonesia</i> (DKITI scholarship) ● Seymour, Richard: <i>The Incentive Effects and Gender-Based Outcome Differences in Hierarchical Promotion Systems</i> |
| 2015 | <ul style="list-style-type: none"> ● Costa, Monica: <i>Gender Equality, Economic Policy and State Resilience in the New State of Timor-Leste</i> |
| 2014 | <ul style="list-style-type: none"> ● O'Connell, Darren: <i>Institutions, Colonisation and the Economic Development of Western Australia and South Australia, 1820-1900</i> |
| 2013 | <ul style="list-style-type: none"> ● Wyndow, Paula: <i>A Gendered Approach to Democratic Development Theory</i> (APA, CRS, AFUW) ● Le, Van Thanh: <i>Occupational Stress among Academic Women in Vietnam</i> (CIPRS) |
| 2007 | <ul style="list-style-type: none"> ● Jefferson, Therese: <i>Women's Retirement Incomes</i> |

PhDs in progress:

- Cornwell, Antonia: *Barriers to Lower Carbon Dioxide Emissions from Household Energy Consumption In Australia* (APA)
- Kalsi, Jaslin: *Intrahousehold Entitlement and Gender Inequality: An Australian Perspective* (APA & BCEC)

Full List of Publications and Presentations

1. PUBLICATIONS

Under review:

- Jefferson, T. and Austen, S. "Micro co-production and aged care", *Work, Employment and Society*
- Austen, S. "Labor Processes and Outcomes: An Institutional-Heterodox Framework" in *Routledge Handbook of Heterodox Economics*, edited by Tae-Hee Jo, Lynne Chester, and Carlo D'Ippoliti, Routledge
- Austen, S. and Sharp, R. "Budgeting for Women's Rights in Retirement" in *Gender Equality in Australia's Tax/Transfer System*, edited by Miranda Stewart, ANU Press

2017 and Forthcoming

Books and Book Chapters (Research)

- Austen, S.**, Sharp, R., Ong, R. and Jefferson, T., (2017) "Missing Mature Age Women in Australia's Aged Care Sector", in *The Sandwich Generation: Caring For Oneself and Others at Home and at Work*, edited by Ronald Burke and Lisa Calvano, Edward Elgar, Cheltenham: 218-241.
- Austen, S.** "Feminist Economics for Smart Behavioural Economists", in *Behavioral Economics With Smart People*, edited by Morris Altman, Edward Elgar, Cheltenham

Journal Articles (Research)

- Jefferson, T., **Austen, S.**, Ong, R. and Haffner, M. 2017. "Housing Equity Withdrawal: Perceptions of Obstacles Among Australian Home Owners and Service Providers", *Journal of Social Policy*, DOI: <https://doi.org/10.1017/S0047279417000058>

2016

Books and Book Chapters (Research)

- Jefferson, T., **Austen, S.**, Sharp, R. Adams, V., Ong, R. and Lewin, G. 2016. "A mixed methods approach to investigating the employment decisions of aged care workers in Australia" in *Handbook of Research Methods and Applications in Heterodox Economics* edited by Frederic S. Lee and Bruce Cronin, Edward Elgar: 445-465

Journal Articles (Research)

- Austen, S.** (2016), 'Gender Issues in an Ageing Society', *Australian Economic Review* 49(4): 494-502
- O'Connell, D. and **Austen, S.** 2016. "The Tortoise and the Hare: How North's Institutional Ideas Resolved a Nineteenth Century Australian Fable", *Journal of Institutional Economics*
- Austen, S.**, Jefferson, T., Lewin, G., Ong, R. and Sharp, R. 2016. "Recognition: Applications in Aged Care Work", *Cambridge Journal of Economics* first published online August 31, 2015 doi:10.1093/cje/bev057
- Austen, S.** and Mavisakalyan, A. 2016. "Constitutions and the Political Agency of Women", submitted to *Feminist Economics* 22(1): 183-210
- Austen, S.**, Jefferson, T., Lewin, G., Ong, R. and Sharp, R. 2016. "Work ability, ageing and intention to leave aged care work", *Australasian Journal on Ageing*.

2015**Books and Book Chapters (Research)**

Austen, S. 2015. 'Fair Wages' in *Real-World Decision Making: An Encyclopedia of Behavioral Economics*, edited by Morris Altman, ABC-CLIO Greenwood.

Austen, S. and Jefferson, T. 2015. 'Feminist and Behavioural Economics' in *Real-World Decision Making: An Encyclopedia of Behavioral Economics*, edited by Morris Altman. ABC-CLIO Greenwood

Journal Articles (Research)

Austen, S. Sharp, R. and Hodgson, H. 2015. "Gender Impact Analysis and the Taxation of Retirement Savings in Australia", *Australian Tax Forum* 30(4): pp. 763-782

Jefferson, T. and **Austen, S.** 2015. "Understanding links between gender and pay: An important role for heterodox economics" *Journal of Australian Political Economy* 75: 11-28.

Austen, S., Jefferson, T., Ong, R., Sharp, R. and Lewin, G. 2015. "Can I Afford To Leave?: How Family Care Needs Affect Women's Employment Decisions in the Presence of Financial Strain" *Journal of Industrial Relations*. DOI: 10.1177/0022185615590906

Ong, R. Jefferson, T., Haffner, M., Wood, G., and **Austen, S.** 2015. "Housing Equity Withdrawal in Australia: Prevalence, Patterns and Motivations in Mid-to-late Life", *Housing Studies*, DOI: 10.1080/02673037.2015.1009875.

Other publications

Austen, S. and Ong, R. 2015, *The Use of Home Equity to Fund the Consumption Needs of Retirees: A Selective Review of Literature on Issues and Potential Risks*, Working Paper, 15/5, Bankwest Curtin Economics Centre, Perth

2014**Books and Book Chapters (Research)**

Austen, S. E., T. M. Jefferson, and V. H. Thein. 2014. "Gendered social indicators and grounded theory." In *Grounded Theory and Situational Analysis*, ed. Adele E. Clarke and Kathy Charmaz, 175-190. London, USA, India & Singapore: SAGE Publications Ltd.

Journal Articles (Research)

Austen, S. and Jefferson, T. 2014. "Economic analysis, ideology and the public sphere: insights from Australia's equal remuneration hearings" *Cambridge Journal of Economics*. For a special edition on 'Equal Pay: Fair Pay? A Forty-year Perspective. doi:10.1093/cje/beu042

Austen, S. , T. M. Jefferson, and R. Ong. 2014. "The Gender Gap in Financial Security: What We Know and Don't Know about Australian Households." *Feminist Economics* 20 (3): 25-52.

Austen, S., R. Ong, S. Bawa, and T. M. Jefferson. 2014. "Exploring Recent Increases in the Gender Wealth Gap Among Australia's Single Households." *Economic and Labour Relations Review* 2014: 1-26.

Austen, S., Jefferson, T., Sharp, R., Adams, V., Ong, R. and Lewin, G. 2014. "Mixed methods research: What's in it for Economists?" *Economics and Labour Relations Review*, 25(2): 290-305.

2013**Books (Research)**

Ong, R., M. Haffner, G. Wood, T. M. Jefferson, and S. **Austen**. 2013. *Assets Debt and the Drawdown of Housing Equity by an Ageing Population*. Australia: Australian Housing and Urban Research Institute

Ong, R., T. M. Jefferson, G. Wood, M. Haffner, and S. **Austen**. 2013. *Housing Equity Withdrawal: Uses, Risks, and Barriers to Alternative Mechanisms in Later Life*. Australia: Australian Housing and Urban Research Institute.

Journal Articles (Research)

- Austen, S., C. McMurray, G. Lewin, and R. Ong.** 2013. "Retaining Workers in an Ageing Population: Insights from a Representative Aged and Community Care Organisation." *Australasian Journal on Ageing* 32 (1): 41-46.
- Austen, S., M. Costa, R. Sharp, and D. Elson.** 2013. "Expenditure Incidence Analysis: A Gender-Responsive Budgeting Tool for Educational Expenditure in Timor-Leste?." *Feminist Economics* 19: 1-24.
- Austen, S., and G. Redmond.** 2013. "Male Earnings Inequality, Women's Earnings, and Family Income Inequality in Australia, 1982-2007." *Journal of Economic Issues* 47 (1): 33-61.
- Austen, S., T. M. Jefferson, and A. C. Preston.** 2013. "Contrasting Economic Analyses of Equal Remuneration: The Social and Community Services (SACS) Case." *Journal of Industrial Relations* 55 (1): 60-79.
- Austen, S. E., and R. Ong.** 2013. "The Effects of Ill Health and Informal Care Roles on the Employment Retention of Mid-Life Women: Does the Workplace Matter?." *Journal of Industrial Relations* 55 (5): 663-680.

2011

Journal Articles (Research)

- Austen, S., and F. MacPhail.** 2011. "The Post-School Education Choices of Young Women in Australia and Canada." *Economic and Labour Relations Review* 22 (3): 141-158. .

2010

Books (Research)

- Austen, S., and F. MacPhail.** 2010. *Post-School Education and Labour Force Participation in Canada and Australia*. Australia: National Centre for Vocational Education Research

Journal Articles (Research)

- Austen, S., and T. M. Jefferson.** 2010. "Feminist and Post-Keynesian Economics: Challenges and Opportunities." *Cambridge Journal of Economics* 34 (6): 1109-1122.
- Thein, V. H., S. Austen, J. Currie, and E. Lewin.** 2010. "The Impact of Cultural Context on the Perception of Work/Family Balance by Professional Women in Singapore and Hong Kong." *International Journal of Cross Cultural Management* 10 (3): 303-320.

2009

Journal Articles (Research)

- Austen, S. E., and R. Ong.** 2009. "The Employment Transitions of Mid-Life Women: Health and Care Effects." *Ageing and Society* 30 (2): 207-227.
- Austen, S., and R. G. Seymour.** 2009. "Can Governments Use Their Construction Contracts to Improve Training Outcomes?" *Journal of Purchasing and Supply Management* 15: 43-50

Selected 2003-2008 publications

Austen, S. (2003) *Culture and the Labour Market*, Cheltenham, Edward Elgar.

Austen S., Redmond G. 2008, 'Family Income Inequality', in *Australian Social Trends 2008*, Australian Bureau of Statistics, Canberra, Australia.

Austen S. 2008, 'Australia's Research Quality Framework and Gender Equity', *International Education Journal*, Vol. 9, pp. 31-40

Austen S., Doss N. 2008, 'Measuring Women's Quality of Life : A Discussion of Alternative Approaches', *Review of Social Economy*, Vol. 66, pp. 325-349

- Austen S.** 2008, 'The Labour Force Involvement Of Women: Lessons from a Comparison of Canada and Australia', *Public Policy*, Vol. 3
- Sharp R., **Austen S.** 2007, 'The 2006 Federal Budget: A Gender Analysis of the Superannuation Taxation Concessions', *Australian Journal of Labour Economics*, Vol. 10, pp. 61-77
- Austen S.** 2007, 'Big Ideas in Economics: A Course Based on the Nobel Laureates in Economics', *Australian Journal of Economics Education*, Vol. 4, pp. 75-84
- Austen S.**, Jefferson TM 2006, 'Comparing Responses to Critical Realism', *Journal of Economic Methodology*, Vol. 13, pp. 257-282
- Austen S.**, Seymour RG 2006, 'The Evolution of the Female Labour Force Participation Rate in Australia, 1984-1999', *Australian Journal of Labour Economics*, Vol. 9, pp. 305-320
- Austen S.** 2005, 'Demographic Change in Singapore and its Possible Consequences for Women's Involvement in the Paid Workforce', *Journal of Contemporary Issues in Business and Government*, Vol. 11, pp. 17-33
- Austen S.** 2004, 'Gender Differences in Academic Rank in Australian Universities', in *Australian Bulletin of Labour*, Vol. 30(2), pp. 113-133
- Austen S.** 2004, 'Labour Supply and the Risk of Divorce: An Analysis of Australian Data', *Australian Economic Review*, Vol. 37, pp. 153-165
- Austen S.** 2004, 'Demographic Change and Labour Force Participation Rates', *Ecodebate*, Warrigal Publications, Vol. 18, pp. 5-7

2. RECENT PRESENTATIONS

- a. 'Mid-life employment of Australian aged care workers: the role of workability', CEPAR workshop on Mid-life Employment: Determinants, Consequences, and Policy', UNSW, Sydney, July 2016
- b. 'The School to Work Transitions of Young Indonesian Women", 25th IAFFE Annual Conference, Transitions and Transformations in Gender Equality', Galway, Ireland, June 24-26, 2016
- c. 'Gender aspects of retirement income and savings policies', ASSA/CSRI Roundtable on Retirement Income Adequacy and Interactions with Aged Care and Health Care, Canberra, Wednesday 6 April 2016
- d. 'Improving equity in Australian retirement income: can we learn from other countries' experiences with social insurance?', 2015 *Academy of Social Sciences Annual Symposium* "Reinventing the Welfare State? The Future of Social Insurance in Australia and Internationally", Canberra, 17 November 2015
- e. 'Housing assets and retirement incomes: a tax-transfer evaluation of gender impacts', ASSA workshop on Gender Equality in Australia's Tax-Transfer System, ANU, November 2015
- f. 'Retirement savings, tax concessions and assets', "Where Next for the Income Tax" conference, ANU, 27-28 April 2015
- g. 'The Australian labour market and the role of migration', keynote address to the *Migration Institute of Australia's Annual Conference*, October 29-30, Perth 2015
- h. 'Elinor Ostrom's Institutional Analysis and Design Framework: Is it Useful for the Analysis of Aged Care Work?', International Association for Feminist Economics Conference, Berlin, July 2015.
- i. 'A Feminist-Institutional Approach to Understanding the Challenges of Provisioning Aged Care Needs in the Presence of Dirt and Danger', Presentation to the Allied Social Science Associations January 3-5, 2015, Boston, MA
- j. 'The potential uses of Elinor Ostrom's Institutional Analysis and Design (IAD) framework for feminist economic analysis', *Association for Evolutionary Economics* symposium, Sydney, December 2014

3. SELECTED OTHER PRESENTATIONS

- a. 'Intersections in Australian research: Older workers, women's labour supply and paid work in aged care', *Refereed Proceedings of the 26th Annual Conference Association for Industrial Relations Academics of Australian and New Zealand*, Hotel Grand Chancellor, Gold Coast, 8-10 February 2012. Available at: <http://www.airanz.org/2012-conference-main.html>
- b. 'Plain Old Disrespect: Explorations of Recognition and Intrinsic Motivation in Care Work' in Lynne Chester, Michael Johnson and Peter Kriesler, *Heterodox economics: Ten years and*

- growing stronger! Proceedings of the 10th Annual Society for Heterodox Economics Conference*, 5-6 December 2011 pp 36-45.
- c. "Gender Comparisons of Asset and Debt Portfolios in Australia", *Paper prepared for the 39th Australian Conference of Economists, Sydney, 27-29 September 2010.*
 - d. 'Dirty work and maldistribution in aged care work', *Annual Conference of the Society for Heterodox Economics*, University of New South Wales, Sydney, December 2013.
 - e. 'Recognition and aged care work', *Annual Conference of the Society for Heterodox Economics*, University of New South Wales, Sydney, December 2013.
 - f. 'Planning and implementing a mixed methods research project: A study of aged care workers' employment retention' *Association for Industrial Relations Academics of Australian and New Zealand*, Fremantle Western Australia, February 2013.
 - g. 'Different economic perspectives on the gender wage gap: Ideology or method' *Association for Heterodox Economics*, Paris, July 2012.
 - h. 'Recognition and Aged Care Work', *International Association for Feminist Economics Annual Conference*, Barcelona, July 2012.
 - i. 'Economic analyses of equal remuneration' *Society for Heterodox Economics Conference*, 5-6 December 2011, Sydney.
 - j. 'Can behavioural economics contribute to feminist discussions?' *Sixth Australian Society of Heterodox Economists Conference*, 10-11 December, University of New South Wales, Sydney.
 - k. 'The response to critical realism in feminist economics' *3rd Annual Conference, Australian Society of Heterodox Economists*, University of New South Wales, 13-14 December 2004.
 - l. 'Comparing responses to critical realism', *Paper presented to the Seventeenth Conference of the History of Economic Thought Society of Australia*, Business School, University of Western Australia, 6-9 July, 2004.

4. SELECTED NON-REFEREED PUBLICATIONS

- a. **Austen**, S., Jefferson, T. and Sharp, R. (2007) 'Communicating the Gendered Impact of Economic Policies' *ASSA Dialogues* 26(1): 71- 75
- b. Jefferson, T., **Austen**, S. and Preston, A. (2005) 'Adjusting the Focus: Perceptions of Life, Work and Saving for Retirement' *Women's Economic Policy Analysis Unit*, Perth.
- c. Jefferson, T., **Austen**, S. and Preston, A. (2004) 'Life, Work and Saving for Retirement: Full Report with Detailed Findings' Report prepared for the Office for Women's Policy and Office for Senior's Interests and Volunteering, December 2004.

10 March 2017

Professor Siobhan Austen
School of Economics and Finance
Curtin Business School

Via e-mail: Siobhan.Austen@cbs.curtin.edu.au

CONFIDENTIAL: SUBJECT TO LEGAL PROFESSIONAL PRIVILEGE

Dear Professor Austen,

FOUR YEARLY REVIEW OF MODERN AWARDS – FAMILY FRIENDLY WORK ARRANGEMENTS

Background

The Australian Council of Trade Unions (ACTU) is the peak body for Australian unions, representing 46 affiliated unions and approximately 1.8 million working Australians and their families.

Under s 156 of the *Fair Work Act 2009*, the Fair Work Commission must review all modern awards every four years (the **four yearly review**). As part of the current four yearly review, the ACTU has applied to the Commission to vary most modern awards to include a right for working parents and carers to work part-time or on reduced hours to accommodate their responsibilities as parents and/or carers, with a right to revert to their former working hours afterwards.

The ACTU has provided the employer parties with a draft of the proposed clause and will shortly seek to file the proposed clause with the Commission. We will provide you with a copy of the proposed clause as soon as possible.

1. Prepare a written report containing your expert opinion in relation to the matters set out below;
2. If required, review any relevant material filed by the employer parties' and prepare any report in reply; and
3. Appear to give evidence at the hearing of the application before the Commission between 10 – 21 October 2017 (the exact time and date of your evidence is yet to be confirmed).

Duty

You are engaged by the ACTU to assist the Commission by providing your expert opinion in accordance with the terms of this and any other letter of instruction. Your overriding duty is to assist the Commission. You are not an advocate for the ACTU.

Enclosed with this letter is a copy of the Expert Witness Code of Conduct published by the Federal Court of Australia. Although you are not formally bound by the Code, as a matter of good practice we intend to adopt the Federal Court Rules concerning the engagement of expert witnesses, and the terms of the Code that govern your conduct under this engagement. Please read the Code carefully.

Request for Expert Opinion

You are requested to prepare a written report containing your expert opinion in response to the following questions.

In providing your response to these questions, please ensure you have considered and addressed the matters set out in the Federal Court Practice Note, in particular, Guidelines 1.1 to 1.3, and 2.5 to 2.7.

Assumptions

The terms set out below are used in this letter in accordance with the following definitions:

- Any reference to 'parents' in the questions below is a reference to 'an employee who has responsibility (whether solely or jointly) for the care of a child of school age or younger'.
- Any reference to 'carers' in the questions below is a reference to 'an employee who is responsible for providing personal care, support and assistance to another individual who needs it on an ongoing or indefinite basis because that other individual (a) has a disability; or (b) has a medical condition (including a terminal or chronic illness); or (c) has a mental illness; or (d) is frail and aged.

Question 1

What impact, if any, does (a) being a parent and/or (b) being a carer have on female employees:

- (a) Labour force participation rates over time, including where possible information about participation rates after an employee has ceased being a parent or carer;
- (b) The nature of labour force participation and experiences of paid work over time, including, without limitation, changes in:
 - i. Employment status – eg, permanent, casual, contract;
 - ii. Industry and enterprise – eg, retail, education, construction;
 - iii. Skill levels – eg, skilled and unskilled labour.
- (c) Lifetime earnings (including superannuation).

Question 2

What impact, if any, does (a) being a parent and/or (b) being a carer have on male employees:

- (a) Labour force participation rates, including where possible information about participation rates after an employee has ceased being a parent or carer;
- (b) The nature of labour force participation and experiences of paid work over time, including, without limitation, changes in:
 - a. Employment status – eg, permanent, casual, contract;
 - b. Industry and enterprise – eg, retail, education, construction;

- c. Skill levels – eg, skilled and unskilled labour.
- (c) Lifetime earnings including superannuation.

Question 3

Do your answers to Questions 1 and 2 identify a difference between men and women of the impact, if any, of being a parent and/or a carer?

Question 4

If the answer to Question 3 is yes, please identify and describe the difference, including by reference to:

- (a) Any difference in male and female workforce participation rates over time;
- (b) Any difference in the nature of labour force participation over time;
- (c) Any difference in remuneration (gender pay gap) and lifetime earnings between men and women; and
- (d) Any other measures you determine are relevant, explaining why.

Report Format

Your expert report will be annexed to a brief witness statement setting out the qualifications and experience that establishes your expertise. You should attach a detailed curriculum vitae to your witness statement, along with this letter of instruction.

Your role is to assist the Commission by providing your expert opinion in accordance with this letter of instruction. Please address your report to the Fair Work Commission.

In order to ensure your report can be used easily at the hearing of this matter, we ask that you include the following matters in the report:

- (a) a brief summary of your opinion or opinions at the beginning of the report;
- (b) a glossary of any specialised terminology;
- (c) references to any literature or other materials cited in support of your opinions. Please use a uniform citation method throughout the report. If you use parenthetical referencing (Chicago-style citation), please provide pinpoint citations where applicable;
- (d) a bibliography;
- (e) numbered paragraphs and page numbers, and headings where appropriate; and
- (f) margins of at least 2.5 centimetres, and line spacing of at least 1.5 points, with 12 points between paragraphs;
- (g) at the conclusion of your report, please include a signed and dated declaration in the following terms:

I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance that I regard as relevant have, to my knowledge, been withheld from the Commission.

Communications and Timing

Your report is due to be filed in the Commission on **24 April 2017**. We are required to file comprehensive written submissions that address the findings we will ask the Commission to make based on your evidence. We will be in contact in due course regarding your progress.

Please note that all communications between you, the ACTU and its legal representatives can, on request, be provided to the employer organisations and the Commission. This includes any draft of your report, including your working notes.

If you have any questions, or wish to discuss further, please do not hesitate to contact Sophie Ismail on 03 9664 7218 or [REDACTED] or sismail@actu.org.au.

Yours sincerely,



Sophie Ismail

Legal and Industrial Officer

The Effects of Parenthood and other Care Roles on Men's and Women's Labour Force Participation and Experiences of Paid Work

A report prepared at the request of the ACTU for use
in proceedings in the Fair Work Commission

Siobhan Austen
May 2017

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SUMMARY OF OPINION

The material presented in the report yields the following answers to the key questions:

Question 1: *What impact, if any, does (a) being a parent and/or (b) being a carer have on female employees?*

The impact of parenthood on female employees is large. Parenthood disrupts women's involvement in paid work, causing many women to leave paid work and others to move into part-time work. When women move into part-time work, a relatively large proportion lose the job security associated with a permanent contract. A significant number of women who move from full- to part-time work also experience occupational downgrading.

The disruptive effects of parenthood on women's employment and occupations contribute to a 'motherhood pay penalty' and, ultimately, lower superannuation and other forms of wealth. A large proportion of women who leave paid work following childbirth do not return to paid work, at least not in the short term. These breaks in women's employment and job tenure negatively impact their ability to benefit from work experience and education, and cause many women's skills to be underutilised. As a result of its negative employment and occupational impacts, parenthood is also associated with lower lifetime earnings and superannuation for many women. This has important (and negative) impacts on women's economic security and independence, and it harms household savings.

Women also take on the large majority of informal care roles associated with disabled, ill and aged/frail family members. The effect of these roles on women's labour force participation is less certain: several Australian studies find a negative impact but some do not show a statistically significant impact. The lack of consensus on the overall employment impacts of informal care roles is related, in part, to the different effects of these roles on women in low- versus high-income households. When informal care needs arise, women in low-income households, on average, increase their attachment to paid work; whilst other women, on average, drop out of paid work. Studies that find a negative impact show that women's engagement with paid work does not rebound when their informal care roles

diminish. This suggests that informal care roles can undermine women's ongoing employment and income-earning opportunities.

Question 2: *What impact, if any, does (a) being a parent and/or (b) being a carer have on male employees?*

Parenthood tends to strengthen men's attachment to full-time work. Labour force participation rates (LFPRs) are higher for fathers than other men, and the large majority of fathers work full-time. Following the birth of a child, the chance that a man will leave full-time work, or move into part-time work falls.

However, occupational downgrading and loss of job security is a relatively common experience for (the small group of) men who move from full- to part-time work. This could indicate that men find it difficult to achieve family friendly hours within their current employment contracts. Barriers to men's ability to achieve family friendly work hours can shift the burden of care onto women, and reinforce the gendered division of paid and unpaid work.

Men's strong attachment to full-time, and continuous, paid work has a positive effect on their lifetime earnings, superannuation savings and accumulation of other wealth, regardless of whether they are fathers or not.

Question 3: *Do the answers to Questions 1 and 2 identify a difference between men and women of the impact, if any, of being a parent and/or a carer?*

There are large differences in the impact of being a parent on the employment, earnings and retirement incomes of Australian men and women. These differences show that women pay a heavy price for the care roles they take on in their families and community. The differences are an important aspect of gender inequality in the Australian community. They also have macroeconomic significance, given that they are associated with an underutilisation of women's skills and contribute to low household savings.

Question 4: *Identify and describe the differences in male and female workforce participation rates over time; remuneration (gender pay gap) and lifetime earnings.*

There is a 10 percentage point gap between the male and female LFPRs. The gap in the part-time employment rate is much larger at 29.7 percentage points. 47.4% of employed Australian women work in part-time jobs, as compared to 18.7% of employed Australian men.

The gender pay gap (the difference in the average rate of full-time pay for men and women) is 18.2%. The gender gap in weekly earnings is much larger: 31%, due to the differences between men and women in hours worked.

Gender differences in career breaks, working hours, and pay, result in a large gap in the lifetime earnings and superannuation savings of Australian men and women. In 2013-14, there was a 53% gap between the average individual superannuation account balance of men and women aged 50.

Introduction

1. Although women are increasingly engaged in paid work, their employment experiences and unpaid work roles continue to be significantly different from those of men. The roles that women perform in the provision of care to infants, children, and sick, disabled, frail and elderly family members continue to limit women's engagement in paid work and contribute to the persistence of gender gaps in earnings and retirement income.
2. This report examines the continuing gender gaps in labour force participation and work hours in Australia, the persistence of occupational and industry segregation of employment, and gender gaps in pay, weekly earnings, lifetime earnings and superannuation. The report focuses on Australian evidence on the gendered impacts of parenthood on labour force participation and paid work outcomes, making use of the extant research evidence and new data on employment transitions from the most recent Housing Income and Labour Dynamics in Australia (**HILDA**) survey.
3. In an era where policy emphasises self-funding of retirement, health and aged care, and education, the employment impacts of the care roles that women perform are becoming increasingly important to address. The evidence assembled in this report clearly shows that parenthood in particular disrupts women's participation in paid work, whilst the labour force participation of men remains largely unaffected by this key life event. Women drop out of paid work in large numbers following the birth of their child. Many do not return, whilst others move to a part-time role, sometimes at a lower occupational grade, and/or on a casual contract. These changes are the source of both immediate and long-term economic costs for the women involved – and their families – and have macroeconomic significance due to their impacts on labour productivity (through the underutilisation of human capital) and household savings.
4. This report commences with an overview of key patterns and trends in labour force participation rates (**LFPRs**) and 'work experience' of Australian men and women, providing information on gender gaps in labour force participation, work hours, occupation, contract type, pay and superannuation. Subsequent parts of the report

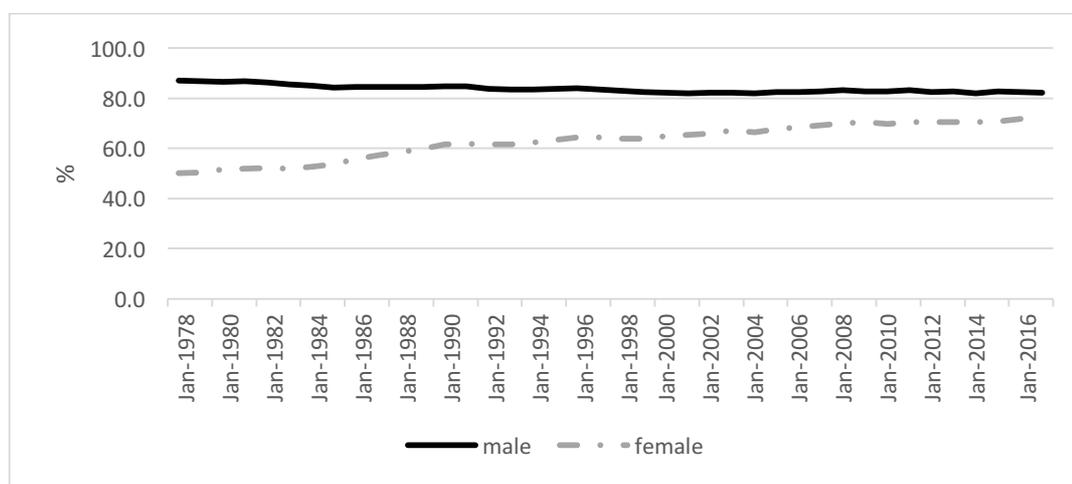
address the employment and other impacts of parenthood and informal care roles on women and men. Part 4 of this report addresses the consequences of these impacts for women and men's pay, career outcomes and superannuation. This discussion is largely conducted in the context of an analysis of gender gaps in pay and lifetime earnings, reflecting the structure of the extant research literature. Part 5 provides a summary and conclusion.

PART 1: Gender Gaps in Labour Force Participation and ‘Work Experience’ in the Australian Labour Market

1.1 Labour Force Participation and Part-Time Work

5. A pervasive feature of the Australian labour market is the gender gap in overall labour force participation rates.¹ In February 2017, the LFPR of Australian women was 72.1%, whilst the male LFPR was 82.1%, a 10.5 percentage point gap (Figure 1).
6. The LFPR of Australian women grew strongly from the 1970s through to 2008, rising from 50.3% in February 1978 to 69.8% in February 2008, which narrowed the gender gap in LFPRs. Falls in the LFPR of Australian men (from the 1970s, when the rate was over 85%) have also lessened the gender gap in LFPRs. However, these changes abated in recent years (Figure 1) and, as noted above, a substantial gender gap in LFPRs remains.

Figure 1: Labour Force Participation Rate, by Gender, Trend Data, Australia, 1978-2017



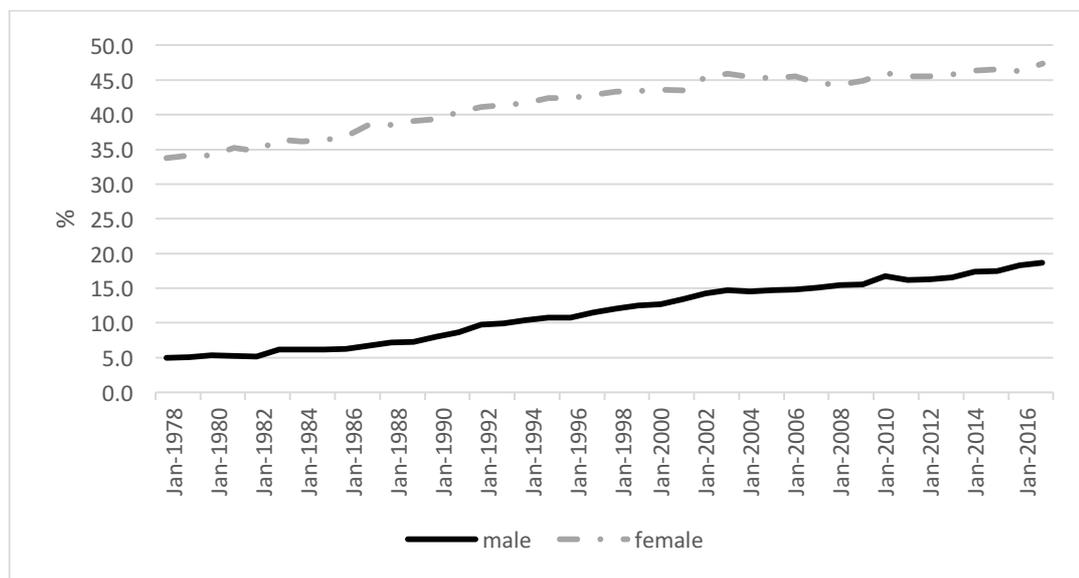
Source: Australian Bureau of Statistics (2017), *Labour Force, Australia*. Cat. No. 6202., Table 18, February 2017

¹ A labour force participation rate (LFPR) measures the proportion of the relevant working age population that is either in paid work or actively seeking paid work.

7. Whilst LFPRs are a key measure of the level of engagement of individuals in paid work, they are limited indicators because they do not distinguish between individuals' participation in full-time and part-time work, or indeed between individuals who are employed and unemployed. These considerations are important in the Australian context due, in part, to the high rate of part-time work amongst women. In February 2017, 47.4% of employed Australian women were working in part-time jobs, as compared to 18.7% of employed Australian men, a 28.7 percentage point gap (Figure 2).

8. While the rate of part-time work has increased for both men and women since 1978, this change has been most pronounced for men. Between 1978 and 2017, men's rate of part-time work rose from 5.0% to 18.7%, a more than three-fold increase. This has lessened somewhat the gender gap in part-time work; but the gap remains large.

Figure 2: Part-time Employment Rate, by Gender, Trend Data, Australia, 1978-2017

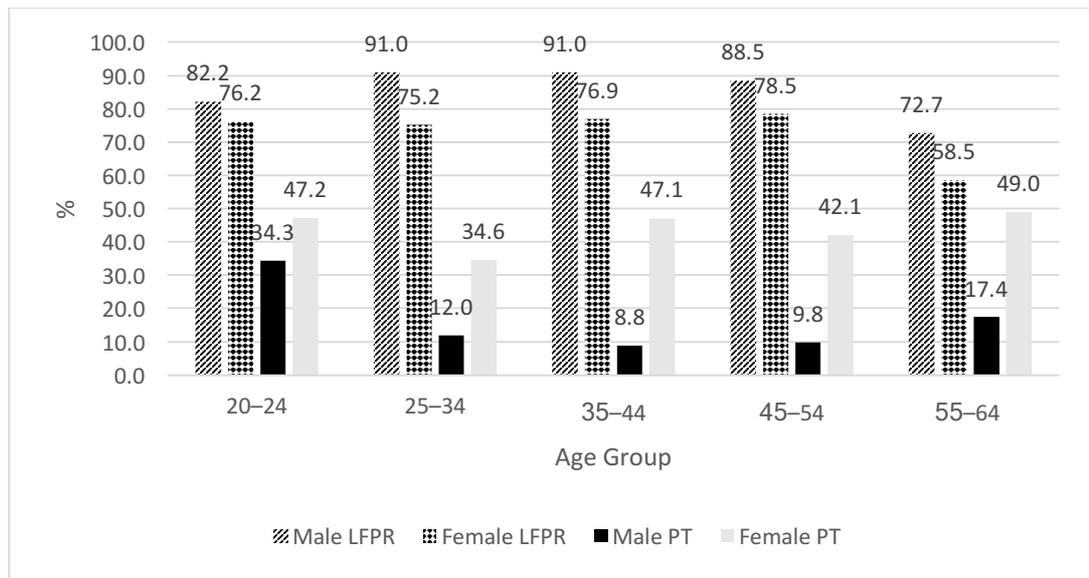


Source: Australian Bureau of Statistics (2017), *Labour Force, Australia*. Cat. No. 6202., Table 1, February 2017

9. Gender gaps in LFPRs and part-time work are present in all age groups but are largest in the 35–44 year age group. As the data in Figure 3 show, the male LFPR exceeds 90% in this age group, whilst the LFPR of women is close to 77%. In this age group the rate of part-time work for women is 47.1%, whilst only 8.8% of men work part-time.

10. LFPRs fall for both men and women over the age of 55, to below 60% for women, and below 75% for men. Rates of part-time work are relatively high in the over 55 age group (49.0% for women and 17.4% for men), and amongst younger Australians.

Figure 3: Labour Force Participation Rate and Part Time Rate, by Gender and Age Group, Australia, 2015-16



Source: ABS (2016), *Gender Indicators, Australia*, August 2016

1.2 Contract type

11. Reflecting, in part, the gender gap in part-time work, a relatively high proportion of Australian women are employed on casual contracts. In 2016, 25.4% of female employees, as compared to 19.7% of male employees, were employed on a casual contract (ABS 2017, *Employee Earnings and Hours*, May 2016, Table 3).

1.3 Occupation and industry

12. The Australian labour market is also characterised by a high degree of occupational and industry segregation. The degree of gender-based occupational segregation is shown by the data in Table 1, which show the proportion of total occupational employment accounted for by female and male full-time and part-time workers. Almost 75% of all workers in the Clerical and Administrative occupational group are women; whilst 90.9% of total employment in the Machinery Operators and Drivers occupational group are men.

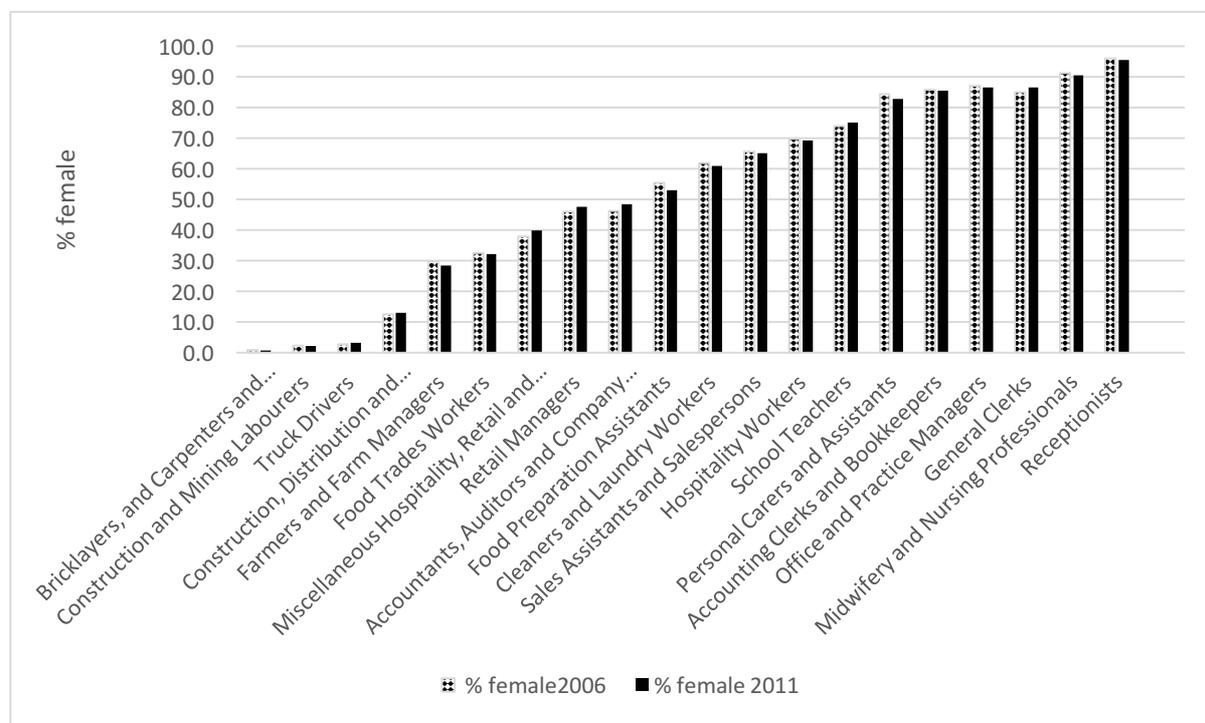
Table 1: Occupations by Gender and Part-time and Full-time hours

Occupation	Female			Male		
	Full-time (%)	Part-time (%)	Total (%)	Full-time (%)	Part-time (%)	Total (%)
 Clerical and Administrative Workers	43.0	31.8	74.8	21.5	3.7	25.2
 Community and Personal Service Workers	25.5	43.3	68.8	18.9	12.3	31.2
 Sales Workers	19.2	41.5	60.7	23.2	16.1	39.3
 Professionals	35.7	18.5	54.2	40.1	5.7	45.8
 Managers	26.7	8.5	35.2	60.0	4.8	64.8
 Labourers	12.0	20.5	32.5	43.0	24.5	67.5
 Technicians and Trades Workers	8.9	5.8	14.7	77.5	7.8	85.3
 Machinery Operators And Drivers	6.3	2.8	9.1	78.3	12.5	90.9
Total employees	25.0	21.2	46.2	44.3	9.5	53.8

Source: WGEA (2016)

13. The degree of occupational segregation in the Australian labour market shows little sign of change. Figure 4 below shows the feminisation rate of the largest 20 occupational groups (at the 3 digit ANZIC classification level) in 2006 and 2011, and highlights the absence of any substantial change in the level of occupational segregation. Indeed, across the 20 occupational groups (which together comprise close to 50% of all employees), the average change in the feminisation rate was only 0.1% between 2006 and 2011.

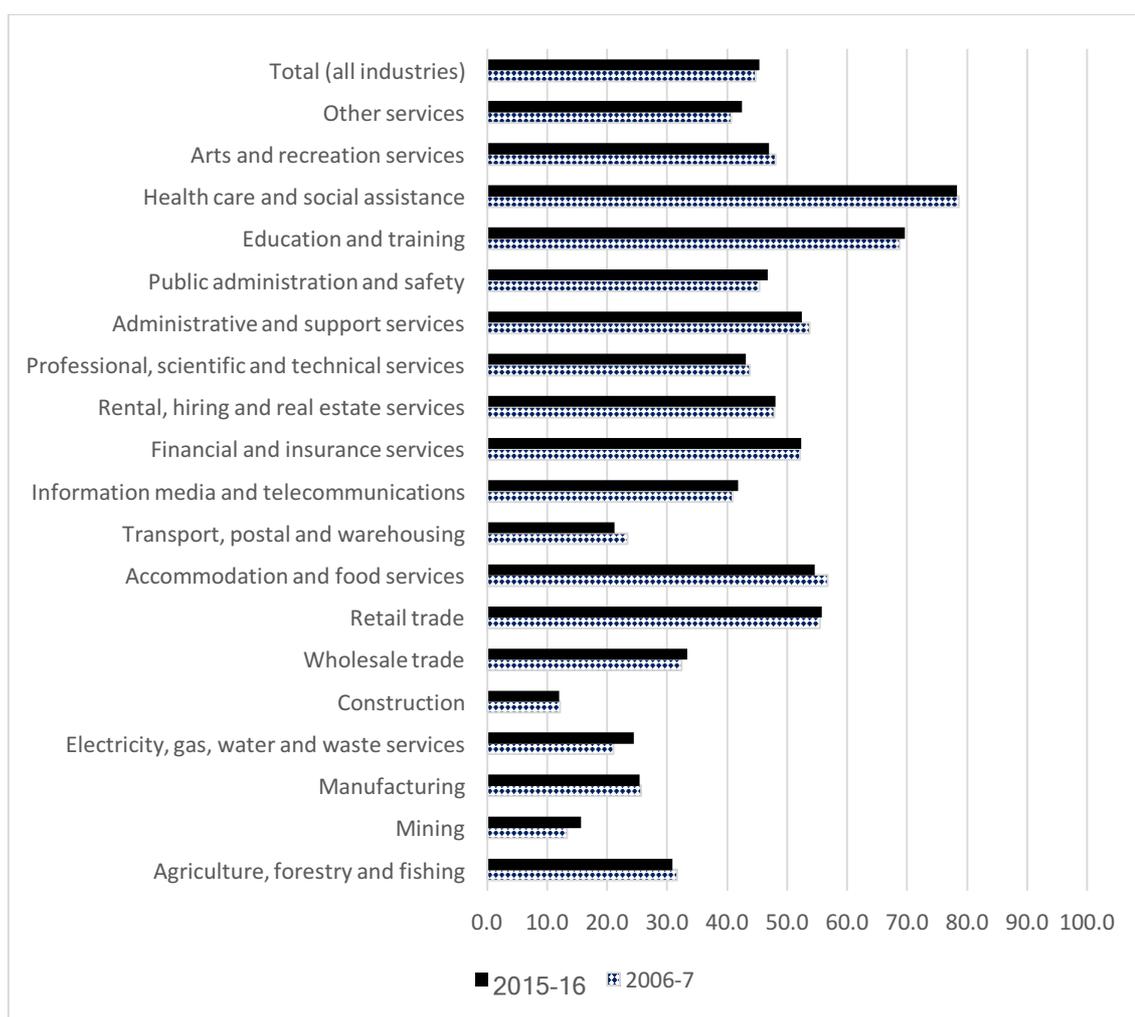
Figure 4: Top 20 Occupations by Level of Feminisation, 2006 and 2011



Source: ABS (2006, 2011) Census of Population and Housing

14. The pattern of employment of men and women across the different industries that comprise the Australian economy also shows little sign of change over the past decade, with women continuing to account for the large majority of employees in the health care and social assistance sector, whilst men dominate employment in construction, manufacturing, mining and agriculture (Figure 5).

Figure 5: Female Employment by Gender, Australia, 2006-7 and 2015-16, percent of total industry employment

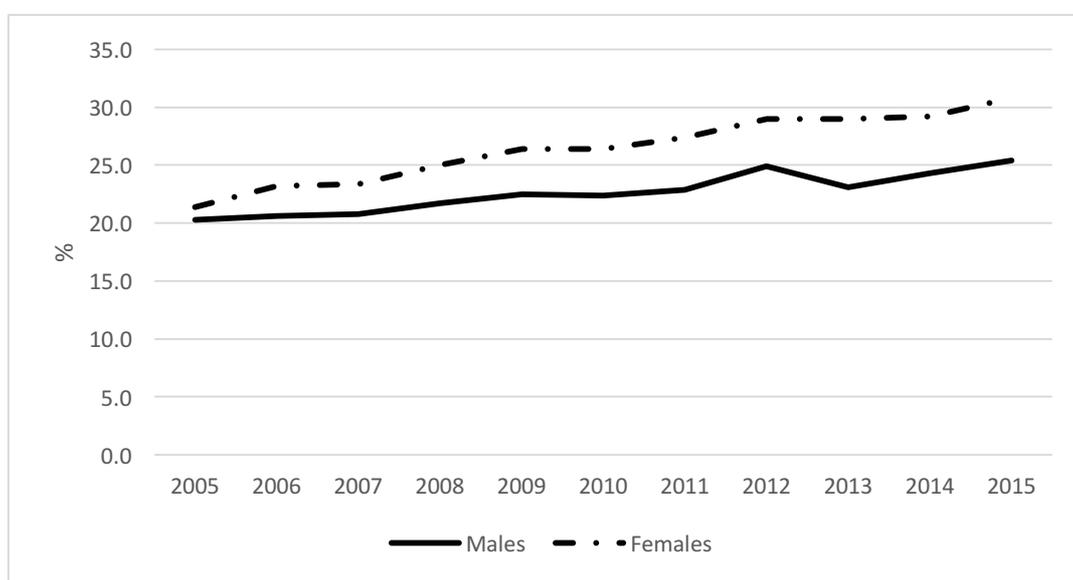


Source: ABS (2016), *Gender Indicators, Australia*, August 2016

1.4 Education

15. The stability in the occupational and industry profiles of Australian men and women are all the more remarkable when account is taken of the dramatic increase in women's level of educational qualifications that has occurred in recent decades. A larger proportion of women than men now have a bachelor level qualification or above, and this gender gap has increased in recent years (Figure 6).

Figure 6: University Qualifications by Gender, Australia, 2006-7 and 2015-16, percent of population age 18-64 with a bachelors degree or above

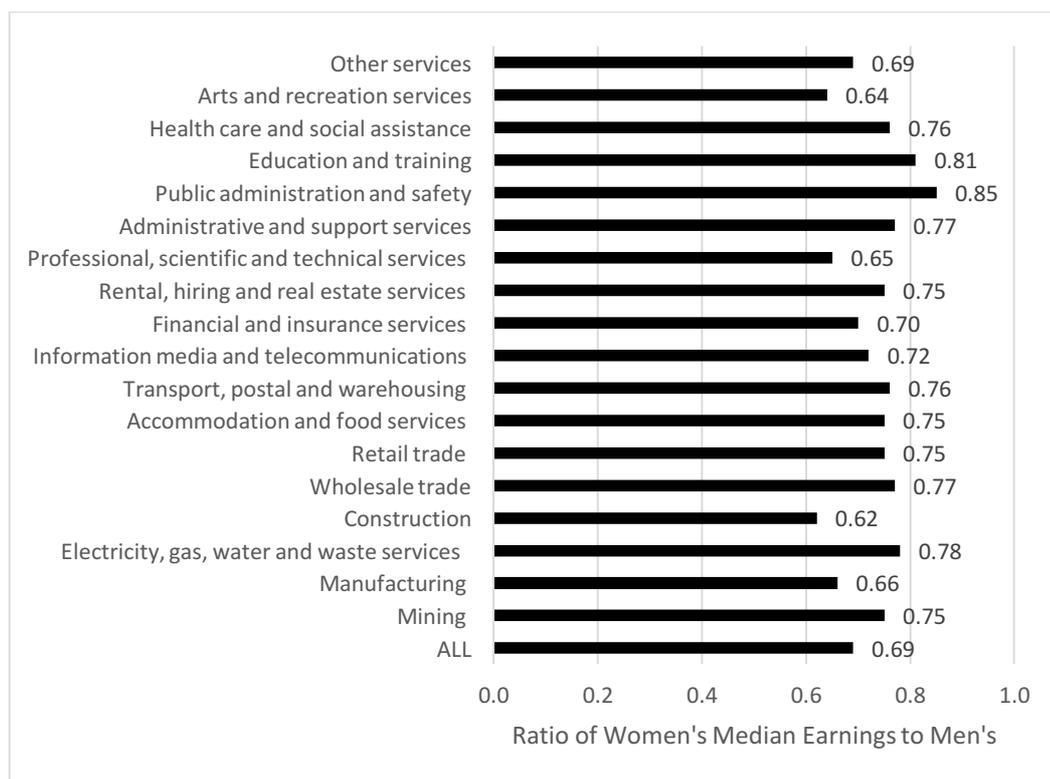


Source: ABS (2016), *Gender Indicators, Australia*, August 2016

1.5 Wage rates and weekly earnings

16. Of particular policy concern is the persistence of a substantial gender pay gap despite the growth in women's educational qualifications. Amongst full-time Australian workers, the gender pay gap favouring men is currently 18.2%; with men in full-time work earning, on average, \$283.20 more per week from their full-time paid work roles than women (ABS, 2016).
17. Due to differences in working hours, the gender gap in weekly earnings is substantially larger than the gender pay gap – at 31% (see Figure 7).

Figure 7: Ratio of Female to Male Median Adult Total Weekly Cash Earnings, by Industry, Australia, 2014

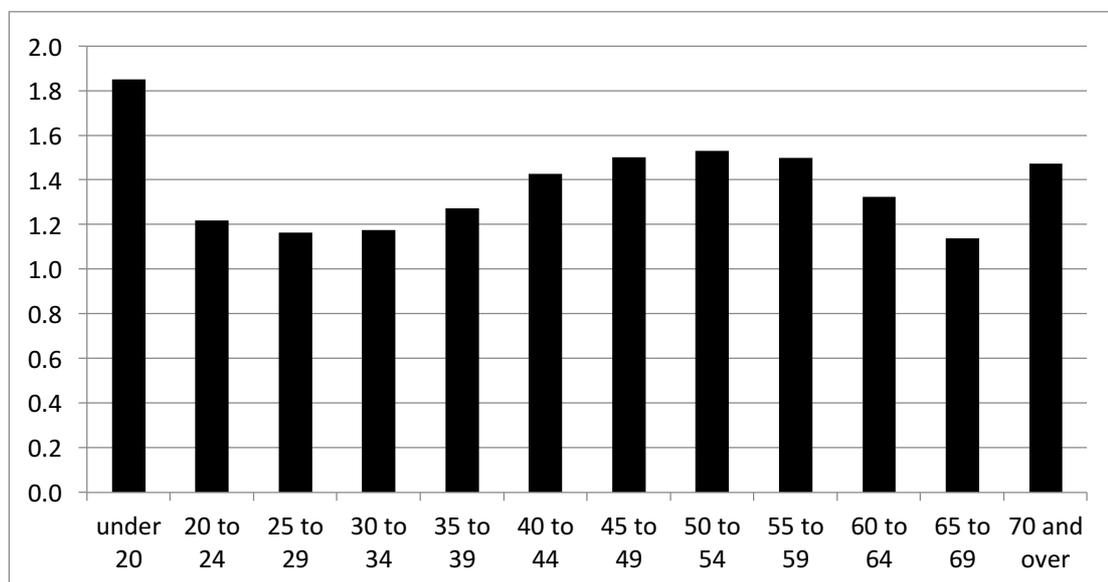


Source: ABS (2016), Gender Indicators, Australia, August 2016, Table 22.

1.6 Lifetime earnings and superannuation

18. The gender gap in pay, hours and labour force participation combine to produce a gender gap in the lifetime earnings and superannuation of Australian men and women. Although lifetime earnings are not measured directly, they can be gauged from superannuation account balances, due to the proportional relationship between superannuation and earnings.
19. The data in Figure 8 reveal that in the group of Australians with an individual superannuation account, men have an account balance that is, on average, 53% larger than women's by the age of 50. The true gender gap in superannuation is in fact larger than the data in Figure 8 suggest, because individuals without a superannuation account (more commonly women than men) are not represented in the data. In 2013-14, 45.9% of women and 37.8% of men aged over 65 had zero superannuation assets.

Figure 8: Ratio of male to female average superannuation account balances, as measured in member contribution statements, ATO 2% file data, 2013-14



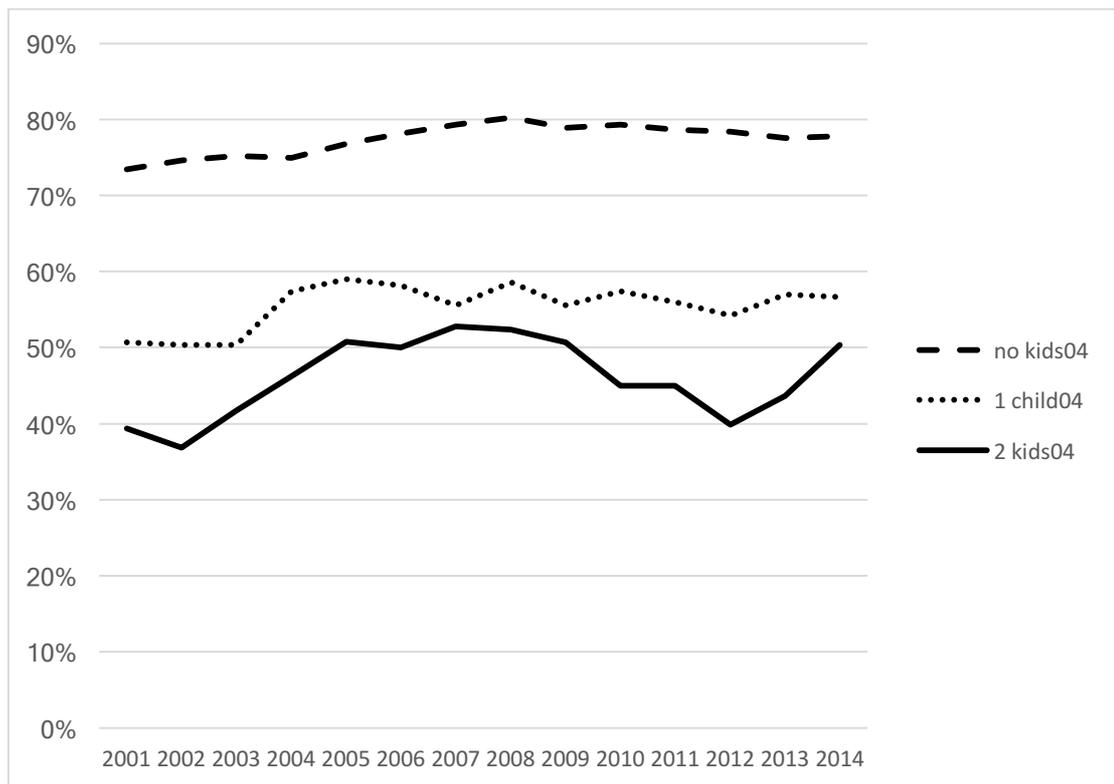
Source: ATO (2015) Australian Taxation Office ([ATO \(2015\), Taxation statistics 2013-14 Individuals](#), Canberra.

PART 2: The Employment and Occupational Impacts of Parenthood on Women

(Question 1)

20. The gendered patterns of paid work, earnings and superannuation raise important questions about the source of these patterns, including the possible impact of the gendered division of unpaid work associated with parenting and other care roles. Women take on a relatively large share of primary roles associated with the care of young children and of individuals who have either a disability, medical condition and/or mental illness, or who are frail and aged. Due to the current configuration of paid work, these roles currently pose significant barriers to the participation of many women in paid work and, thus, limit their opportunities for economic independence.
21. Evidence of the impact of parenthood on women's participation in paid work is available, first, in data showing a strong, negative correlation between motherhood and paid work. HILDA data for 2014 show that the employment rate of women with a child under the age of five falls to 54.0%, and, amongst mothers who are employed, the rate of part-time work reaches 71.3% (recall the LFPR for all women is 72.1% and the overall part-time employment rate is 47.4%).
22. HILDA data also reveals that parenthood continues to have a negative impact on women's employment, despite the growth in women's LFPRs and education that has occurred in recent decades. Between 2001 and 2014, the employment rate of women with children under the age of five increased only marginally – from 47.3% to 54.0% (Figure 9), and the presence of young children remains a significant factor in determining the participation of women in paid work. In 2014, the employment rate of women with one child under the age of five was 56.7%, but the employment rate of women with two children under the age of five was only 50.4% (Figure 9). The employment rate of women without young children was much higher – at 77.8% in 2014.

Figure 9: Female Employment Rates by the Number of Children Under the Age of 5, HILDA Data, 2001-14



Source: Author's analysis of HILDA data for waves 1 through 15.

- 2.1 Australian research evidence on the factors contributing to the negative impact of parenthood on women's workforce participation
23. The impact of motherhood on the involvement of women in paid work has prompted a number of detailed investigations of the contributory factors beyond the gendered division of paid and unpaid work in households. Most of these analyses have addressed policy debates surrounding parental leave and child care. Many recent Australian studies of this issue have utilised data from the HILDA survey.
24. Using data from the first seven waves of the HILDA survey, covering the period 2001–2007, Breunig et al. (2011) linked the large negative impact of parenthood on women's participation in paid work to high childcare costs and poor childcare quality. This study identified that "local problems with availability, quality and cost [of childcare] are associated with working fewer hours and with being less likely to work" amongst Australian partnered women and lone parents (both male and female).

25. Using data from the first five waves of the HILDA survey, covering the period 2001-2005, Ulker and Guven (2011) related the negative impacts of parenthood on women's labour force participation to a broader range of factors. In line with the findings of Breunig et al. (2011), these authors identified the lack of affordable high quality childcare as an impediment to mothers' return to work. Other factors found to delay a woman's return to work included inflexible job conditions "in terms of day or hour arrangements", the absence of special leave entitlements, a high pre-birth wage level and low level of household wealth.
26. An important study by Martin et al. (2015) used specially designed surveys to explore whether the introduction of paid parental leave (**PPL**) mitigated the negative impact of parenthood on women's labour force participation. A key finding was that the PPL delayed mothers' return to work in the short run, but enhanced workforce participation over the longer term. The authors' summary of the scheme's impact was that "...mothers who otherwise would have returned in months one to three now return in months four to six. Returns after the child is six months old are much less affected – there is a tendency that mothers with access to PPL are more likely to return between months six and 12, but the effect is small (albeit statistically significant)".
27. Martin et al. (2015) also found that the effect of PPL on return-to-work patterns was largely due to the scheme's positive effect on mothers in low income households and/or who were previously employed on a casual contract. Before PPL, 79% of mothers employed on casual contracts were away from work at 13 weeks, but this increased to 90% (i.e. by 11 percentage points) after PPL. The effect of PPL on other mothers (i.e. those who weren't on casual contracts) was less, at 7 percentage points.
28. Martin et al. also explored whether the PPL mitigated the impact of motherhood on women's employment and job retention. The authors concluded that the "PPL has increased employer retention and job retention, and also increased the probability that mothers returned to the same conditions they had prior to the birth. However, if the previous job is not maintained, PPL does not have a strong impact on the type of

jobs to which mothers returned after birth.” These effects were strongest for women without tertiary qualifications, and with low income.

2.2 The effects of parenthood on women’s transitions between full-time and part-time work

29. The negative impact that parenthood has on women’s employment, job and occupation continuity implies that the availability of family friendly work hours is an important factor influencing women’s decisions about returning to work after childbirth. In the absence of family friendly hours, a parent with a primary childcare role might ‘decide’ to leave paid work². Alternatively, he/she might change jobs and/or occupations in order to secure part-time work. Such moves are likely to have a detrimental effect on the parent’s long-term wage and career outcomes, and this will be especially the case if the parent is unable to move into full-time work when the time-demands of his/her parenting tasks lessen.
30. A relatively small amount of literature addresses the particular issue of parents changing occupations or employers to achieve part-time work. However, a UK study by Connolly and Gregory (2008) makes an important contribution. This study explored whether the rapid rise in women’s part-time work in the UK between 1991 and 2001 was associated with women moving into jobs at a lower occupational level in order to secure their preferred work hours. The study focused only on women who were employed in two consecutive years, and, thus, did not consider women who moved out of, or into, paid work in this time frame. Using extensive panels from two surveys, Connolly and Gregory (2008) examined the ‘employment transitions’ of women from full-time to part-time work, and vice versa. They compared the incidence of occupational ‘downgrading’ amongst the women who ‘transitioned’ from full-time to part-time work with the incidence of downgrading amongst women who made the opposite transition, or who maintained their existing full-time or part-time hours. The study also compared occupational downgrading amongst women who changed employers in subsequent years.

² The term ‘decide’ is placed in inverted commas to highlight that the choice about continued participation in paid work is highly constrained for many mothers of young children.

31. Whilst Connelly and Gregory's study is UK based it has relevance to the Australian situation for two main reasons. First, as noted above, it is one of the few available studies of occupational change. Second, it developed a methodology for the analysis of occupational change in the Australian context that is used in subsequent parts of this report.
32. To conduct their analysis of occupational change, Connelly and Gregory (2008) defined 15 occupational groups on the basis of the qualification requirements of different jobs and the nature of the work involved.³ They defined occupational downgrading as a movement to a lower ranked occupational group on this occupational scale in consecutive years; and occupational upgrading as the reverse change.
33. Connelly and Gregory found that occupational downgrading was "substantially the more frequent experience for women switching into part-time work", with this pattern strongest amongst the women who changed employers. The authors highlighted that such moves or transitions represent "underutilisation of ...[women's] actual and potential human capital...[a] 'hidden brain drain' of women's part-time work".
34. Connelly and Gregory also found that the opportunities to switch into part-time work without changing occupation varied across occupations and skill groups. For example, in their study, 89% of teachers and nurses who switched to part-time work did so while remaining in their professions, whilst, in contrast, 29% of corporate managers who switched to part-time work changed their occupation, with the majority moving to clerical positions.
35. Australian evidence on the issue of occupational downgrading is relatively small. An analysis of HILDA data from 2001 to 2005 by Venn and Wakefield (2005) examined the factors affecting the likelihood of parents making a transition from full-time work to

³ Connelly and Gregory's occupational ranking is as follows: 1: teachers; 2: other professionals; 3: nurses; 4: associate professionals; 5: corporate managers; 6: higher-skilled services; 7: higher level clerical; 8: other managers; 9: skilled trades; 10: lower level clerical; 11: caring services; 12: other personal services; 13: sales assistants; 14: other low skill occupations; 15: cleaners

part-time work following the birth of their child.⁴ The study excluded individuals who left paid work, resulting in a sample of 13,346 employment transitions. It found that women in full-time work who had a child were significantly more likely to move into a part-time job in the following year than other women in full-time work. Very few women who had a child moved from part-time to full-time work.

36. Venn and Wakefield's results also show that, for women in full-time work, the likelihood that they will make a transition to part-time work is highest when their children are aged under five years.
37. Venn and Wakefield also found that the likelihood of an employment transition from full-time to part-time work is higher for individuals who are hired under a casual employment contract, or are self-employed. 17.1% of workers who were employed on casual contracts moved from a full-time to part-time work the following year, as compared to 4.8% of workers employed on permanent or ongoing contracts (Venn and Wakefield 2005: Table 10).
38. Venn and Wakefield also explored the correlates and consequences of transitioning from full-time to part-time work, including changes in employer, skill and job satisfaction. The transition to part-time work was found to be often associated with a change in employer. This was especially the case for mothers of older children.
39. Venn and Wakefield's analysis of skill change issue relied on measured differences in the level of skill across eight very broad occupational groups. On these measures, the majority of people who moved from full-time and part-time employment did not move into a job with a lower measured level of skill. However, the incidence of skill downgrading was higher in the group that made a transition from full-time to part-time work than it was in comparator groups (i.e. those who remained in full-time work, and those who moved from part-time to full-time work).
40. The majority of mothers who moved from full-time to part-time work reported increased satisfaction with their work hours, whilst those who moved from part-time

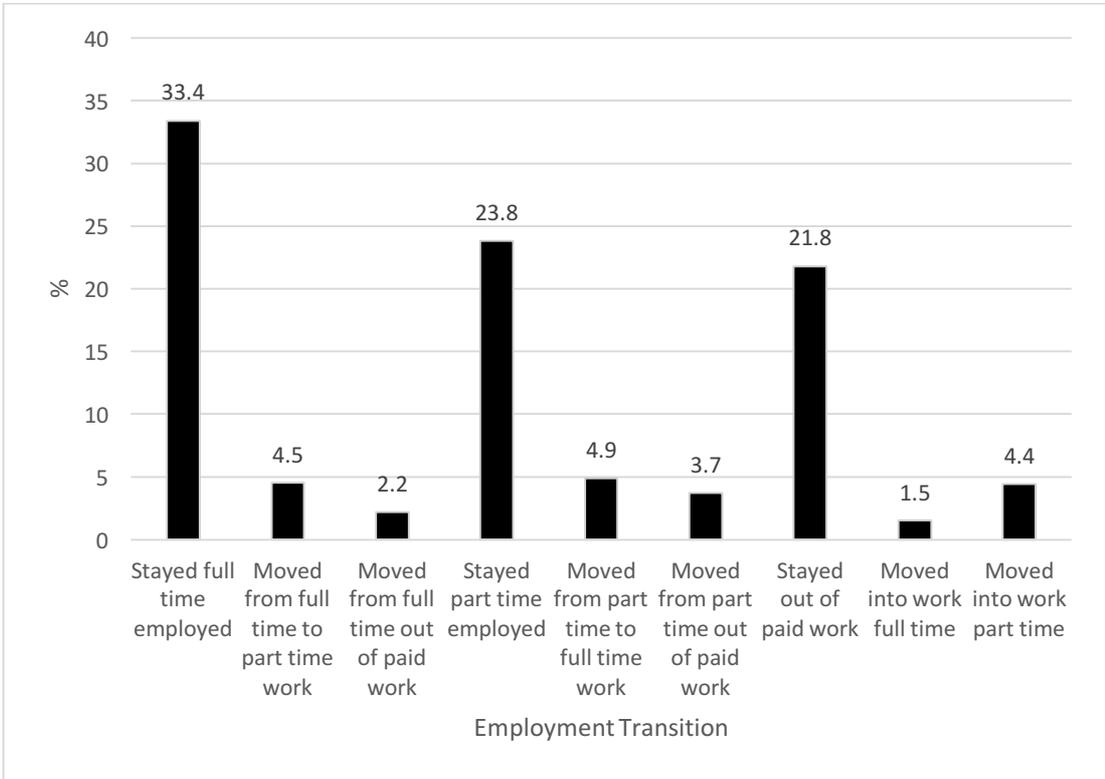
⁴ In HILDA, part-time and full-time work are distinguished by work hours. Full-time work is defined as 35 or more hours of paid work per week.

to full-time work recorded lower satisfaction, suggesting the value of family friendly work hours.

2.3 Additional analysis of women’s employment transitions

- 41. To update Venn and Wakefield’ analysis, this report includes the results of an analysis of HILDA data on employment transitions for women aged 24-60 during the period of 2001-2015. Across this period, it was possible to observe in the data a total of 60,114 year-on-year employment transitions by Australian women.
- 42. These ‘transitions’ include individuals who remain in a full-time job in subsequent years; those who move from full-time to part-time work; and those who move out of paid work.
- 43. The data in Figure 10 highlight the relatively low rate of continuous full-time work amongst Australian women. Only 33.4% of the year-on-year employment ‘transitions’ of women were associated with retention in full-time work.

Figure 10: Women’s Employment Transitions in HILDA, 2001-2015, per cent of all transitions



Source: Author’s analysis of HILDA data for waves 1 through 15. Total n=60114.

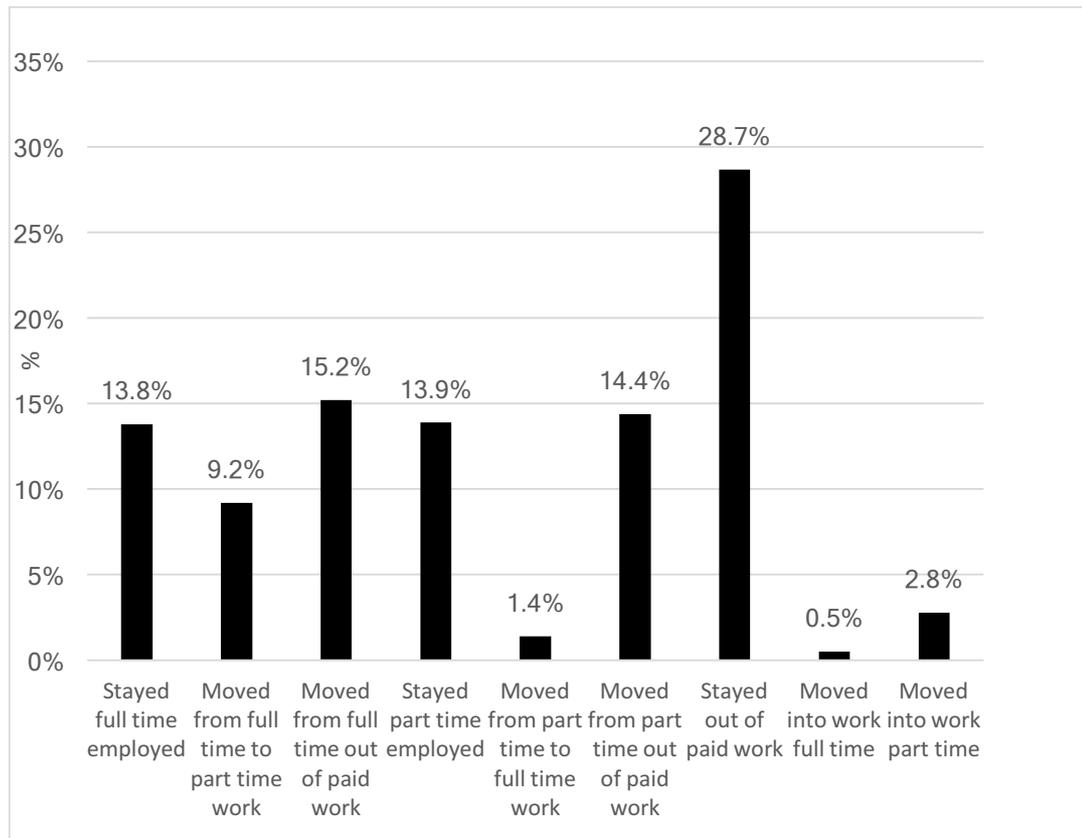
44. Reflecting the patterns described in earlier parts of this report, a relatively high proportion of women's employment transitions (where 'transitions' take into account static employment status, including continuation of non-participation) were associated with remaining in part-time work (23.8%), and remaining out of paid work (21.8%).
45. The employment transitions of Australian women are also characterised by a relatively high rate of transition to part-time work. Over the study period, 4.5% of women's employment transitions were from full-time to part-time work; and 4.4% of women's employment transitions were into part-time work from non-participation.

2.3.1 The effects of motherhood on employment transitions

46. The HILDA data, as summarised in Figures 11 and 12, provide further insights into the dramatic effects of motherhood on the employment transitions of Australian women. The data in Figure 11 show that the proportion of women who continue in full-time work across consecutive years plummets – to 13.8% – as a result of the presence of a new child⁵ in their household. Close to 30% of women with a new child remain out of paid work, and a further 30% move out of paid work.

⁵ This is measured (imperfectly) by an increase in the number of children aged under five a woman has.

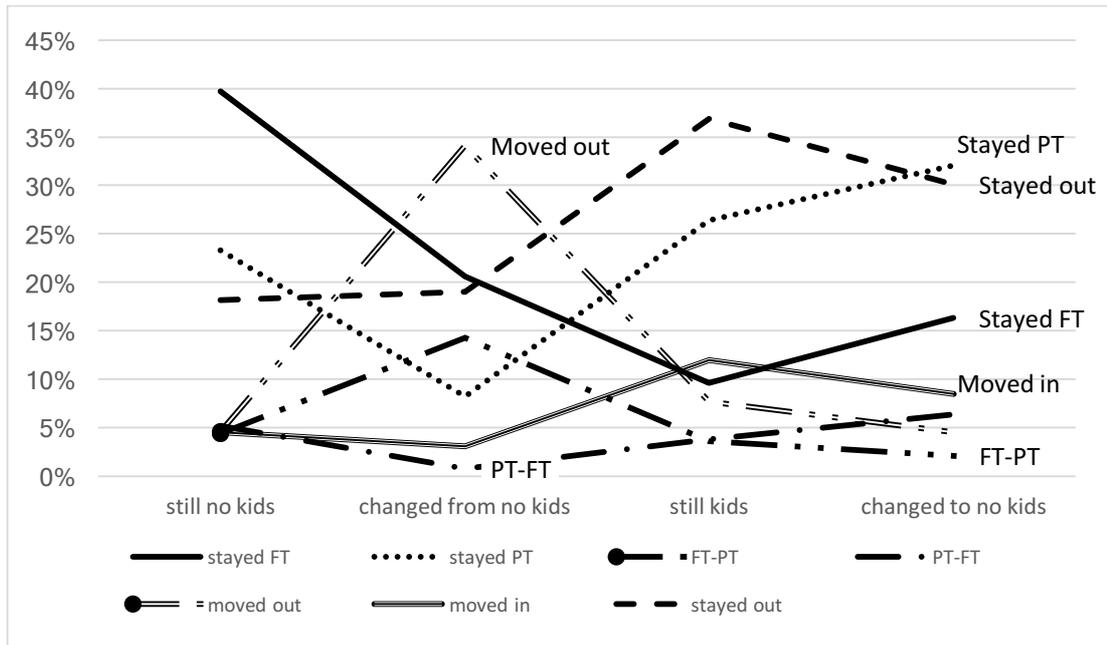
Figure 11: Employment Transitions by New Mothers in HILDA, 2001-2015, per cent of all transitions



Source: Author's analysis of HILDA data for waves 1 through 15. Total n=2630.

47. The data in Figure 12 show the frequency of different employment transition types across a range of household situations characterised by the presence of a child under the age of five, including households where:
- Young children are *not* present;
 - The number of young children increases from 0;
 - Young children continue to be present (e.g. households where the children are older but still under the age of five);
 - The number of children under the age of five falls, but is still positive.

Figure 12: Women's Employment Transitions Across Household Situations Associated with Parenthood in HILDA, 2001-2015, per cent of all transitions



Source: Author's analysis of HILDA data for waves 1 through 15.

48. The data in Figure 12 clearly demonstrates that parenthood is a source of instability in the engagement of women with paid work. The proportion of employment transitions characterised by continuation in full-time work falls from approximately 40% in situations where no young children are present, to 20.6% in situations where the number of new children increases from 0, and to only 9.6% in other household situations where young children are present. Mirroring this change, the prevalence of transitions out of paid work and from full-time to part-time work increase with parenthood.
49. Importantly, the strong asymmetric pattern in the data on mothers' employment transitions in Figure 12 suggests that parenthood has long-term effects on women's engagement in paid work. As noted above, very few women continue in full-time work following childbirth. Furthermore, the prevalence of returns to work and transitions from part-time to full-time work increases only marginally in situations where the number of young children falls (e.g. as the child grows older). Thus, it is evident that a large proportion of mothers remain out of paid work or continue in a part-time job over the longer term.

2.3.2 Occupational downgrading and upgrading by Australian women: HILDA data 2001-2015

50. Connelly and Gregory's occupation and occupational change measures (outlined above) can be applied to the HILDA data to reveal the extent of occupational downgrading or upgrading experienced by Australian women over the 2001-2015 period. As noted by Connelly and Gregory, occupational downgrading may be a consequence of a shift to part-time work if individuals have only limited opportunities to adjust their work hours within their current employment relationship. This implies that a shift to part-time work may have a detrimental effect on a person's long-term wage and career outcomes.
51. This statement examines the prevalence of occupational downgrading and upgrading in four employment transition groups: those who remain in full-time work; those who transition from full-time to part-time work; those who remain in part-time work; and those who transition from part-time to full-time work. The differences between individuals who remained with the same employer, and for those who changed employers are also examined (Figure 13).
52. A key finding is that the prevalence of occupational downgrading is relatively high for women who move from full-time to part-time work, and highest for women who change employers when they shift from full-time to part-time work. Almost one in four women who changed employers as part of a shift from full-time to part-time work moved into a lower skill or status occupation.

Figure 13: Occupational Transitions, Full and Part-Time Employment, Women, HILDA data, 2001-15



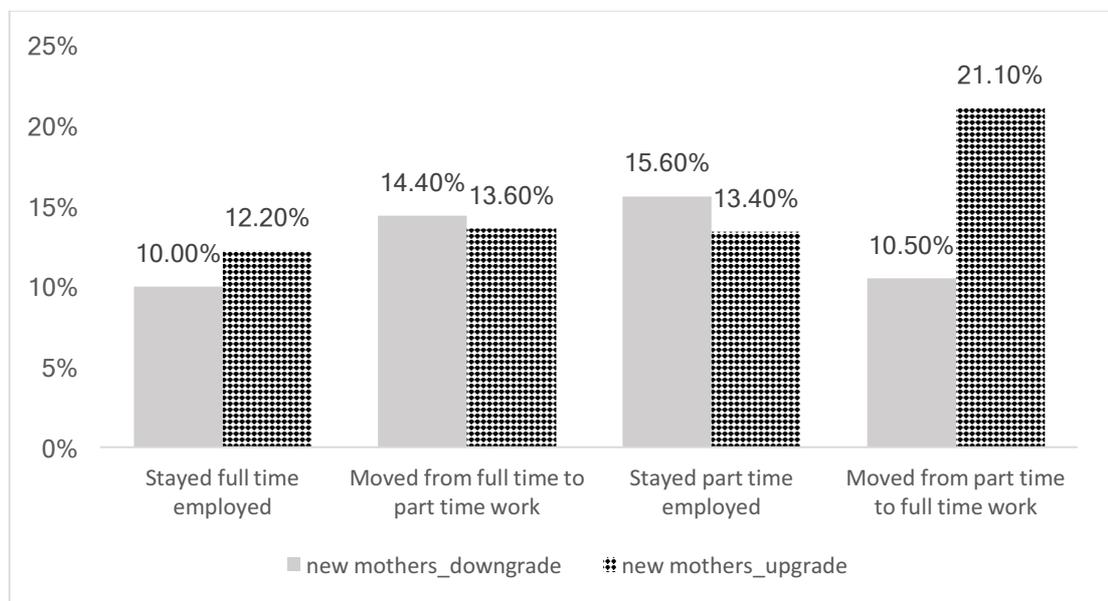
Source: Author's analysis of HILDA data for waves 1 through 15. Total n=33,128 (stayers), n=6,778 (movers). The missing category is no change in occupational skill/status.

53. In contrast, as shown by the data in the figures, occupational upgrading is most commonly associated with a move from part-time to full-time work, with this pattern strongest in the group of women who changed employer. Close to one in three women who moved employer and shifted from part-time to full-time work also changed into a higher skill or status occupation.

2.3.3 Parenthood and occupational change for Australian women

54. To focus on the effects of motherhood on occupational change, the data in Figure 14 show the occupational transitions of mothers of newborn children. This data needs to be treated with caution given that the number of women represented in this data is relatively small (1,008 total transitions), due to the low prevalence of employment amongst mothers of newborns. However, it can be noted that occupational downgrades are slightly more common for the mothers of newborns who move from full-time to part-time work. Occupational upgrading is more prevalent for mothers of newborns who move from part-time to full-time work, although the number of such transitions is extremely small (total of 38 for women over the entire study period). Due to the small amount of data on the employment transitions of mothers of newborns, it is not possible to examine how the employment transitions vary across mothers of newborns who change employer and those who remain with the same employer.

Figure 14: Occupational Transitions, Full and Part-Time Employment by Mothers of Newborn Children, HILDA Data 2001-2015



Source: Author's analysis of HILDA data for waves 1 through 15. Total n=1008.

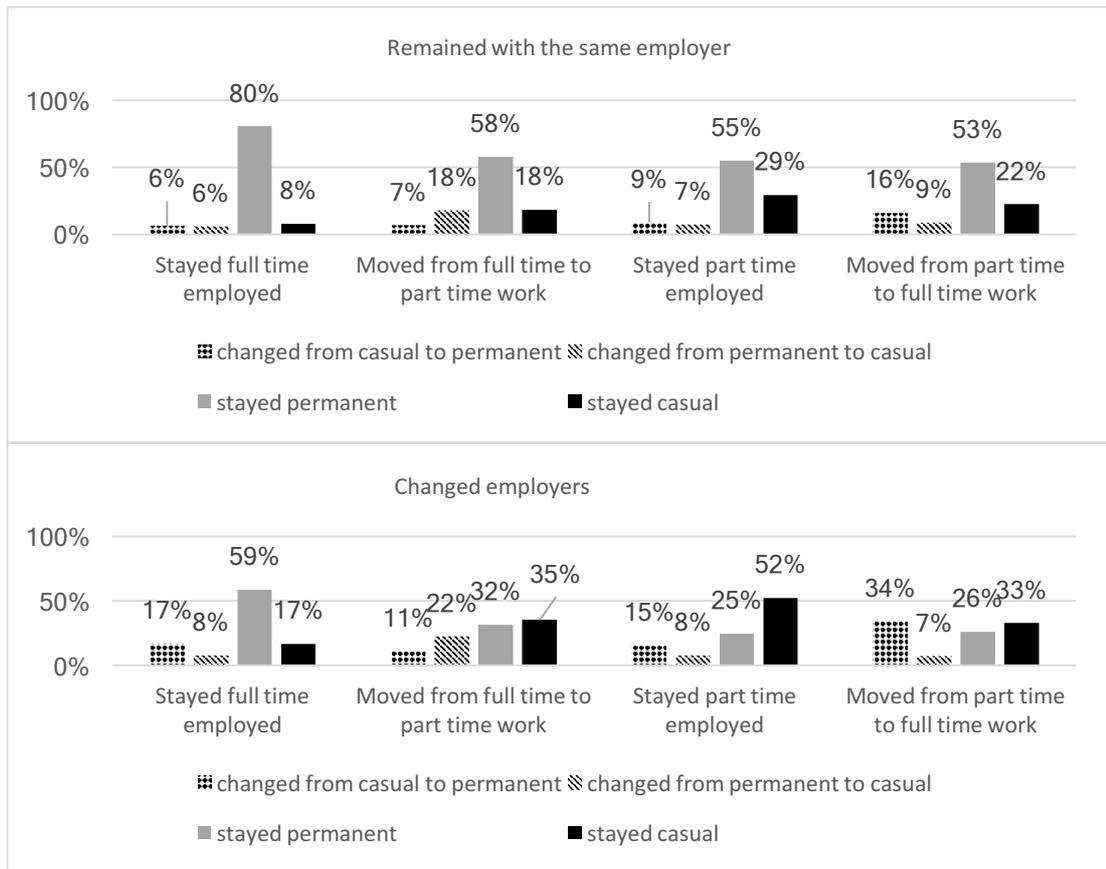
2.3.4 Changes in Contract Type by Australian Women: HILDA data 2001-2015

55. The HILDA data also provides insights into the changes in the employment contracts of Australian women over the 2001-2015 period. A shift from full-time to part-time work may also entail a loss of job security if individuals need to move onto a casual contract⁶ in order to achieve part-time hours.

56. The data in the following chart show the prevalence of a change from a permanent contract to a casual or fixed-term contract (and vice versa) in each of the four employment transition groups outlined above. A key finding is that the shift from permanent to casual status is relatively high (at 18.2%) for women who move from full-time to part-time work but remain with the same employer, and highest (at 21.8%) for women who change employers when they shift from full-time to part-time work.

⁶ In HILDA, casual workers are defined as those without paid holiday leave and paid sick leave, whereas part-time workers are defined as those working fewer than 35 hours per week.

Figure 15: Contract Type Changes, Full and Part-Time Employment by Women, HILDA Data, 2001-2015

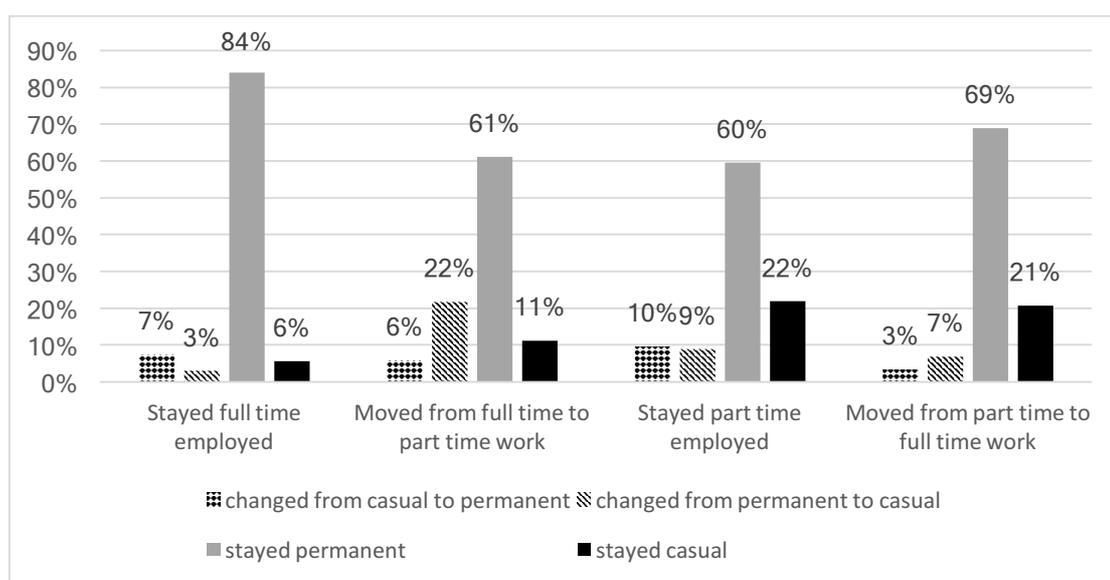


Source: Author's analysis of HILDA data for waves 1 through 15. Total n (stayers)=28,254; total n (movers)=5,994.

2.3.5 Parenthood and contract change for Australian women

57. The data in Figure 16 show the changes in employment contracts that were reported by mothers of newborn children in the HILDA survey from 2001 to 2015. Again, it is important to note that the number of women represented in this data is relatively small, due to the low prevalence of employment amongst mothers of newborns. However, within this group of women, change from a permanent to a casual contract is more commonly associated with a shift from full-time to part-time work than any other employment transition. Of new mothers, 21.8% who moved from full-time to part-time work reported that their employment contract changed from permanent to casual. In each of the other employment transition groups this prevalence was less than 10%.

Figure 16: Contract Type Changes, Full and Part-Time Employment by Mothers of Newborn Children, HILDA Data 2001-2015



Source: Author's analysis of HILDA data for waves 1 through 15. Total n=825.

2.4 The impact of other care roles on women's LFPRs and work experience

58. Whilst many studies of the employment impacts of care roles have focused on the effects of parenthood, a number of Australian studies have broadened the analysis to consider the effects of care roles that relate to the needs of ill and disabled family members, including the frail elderly. These care roles are commonly referred to as 'informal care roles'.

59. Women play a central role in the provision of informal care. In 2015, 71.8% of all primary carers⁷ of individuals with disabilities or long-term conditions, or older persons in Australia were women (ABS 2015).

60. The employment impacts of these care roles are an important issue, given that 5.8% of women aged over 15 are engaged in primary care roles, and the performance of these roles is associated with relatively low rates of workforce participation. In 2015, the LFPR of women who are primary carers was only 53.7% (ABS 2015).

⁷ The ABS defines a primary carer as "a person who provides the most informal assistance, in terms of help or supervision, to a person with one or more disabilities. The assistance has to be ongoing, or likely to be ongoing, for at least six months and be provided for one or more of the core activities (communication, mobility and self care)" (ABS 2015).

61. Academic research on the employment impacts of informal care roles has been concerned with:
- (a) Identifying whether informal care roles are causally relevant to women's workforce participation;
 - (b) Exploring the factors that might influence the employment impacts of informal care roles, such as the availability of family friendly work hours; and
 - (c) Examining possible effects of informal care roles on pay and career outcomes.
62. Leigh (2010) used data from the first seven waves of the HILDA survey (2001 to 2005) to measure the labour market impacts of informal care roles performed by men and women in various age groups. Measuring care roles by the number of hours spent on informal care, Leigh found informal care roles only had small effects on labour market outcomes, including labour force participation and hourly wage rates.
63. Other Australian studies have focused on the impacts of informal care roles on labour force participation by mid-life women. Using data from the Australian Longitudinal Study on Women's Health for 2001 and 2004, Berecki-Gisolf et al. (2008) found that women in their 50s who took up a role caring for an ill, frail or disabled person between these years had a lower rate of labour force participation than other mature-age Australian women.
64. Austen and Ong (2010) used data from the first five waves of the HILDA survey (2001-2005) to explore the determinants of women's transitions into and out of paid employment in mid-life.⁸ The study explored how the likelihood of each type of transition was affected by changes in health status and care roles. It found that when care hours increased, the probability of retaining paid work fell by about 0.1 percentage points for each additional hour of care each week.
65. An important finding of the Austen and Ong (2010) study was an asymmetric relationship between changing care roles and employment. Whilst larger informal

⁸ Mid-life is identified as 40-65.

care roles were found to reduce the likelihood that a woman remained in paid work mid-life, reductions in these roles did not increase the chances of returning to paid work. This demonstrates the substantial long-term employment and earnings consequences of mid-life women undertaking large informal care roles.

66. Austen and Ong (2013) used the expanded set of data available in the first nine waves of the HILDA survey (2001-2009) to examine whether aspects of the workplace context and conditions of employment influence the effects of informal care roles on the retention in paid work of mid-life Australian women. The study's findings indicated that increases in informal care hours have, on average, a detrimental effect on the chances of a woman retaining her paid work roles. Increases in care hours of more than five hours per week were found to reduce the chances of employment retention of mid-life women, on average, by 6.5 percentage points.
67. Austen and Ong also found that women on permanent contracts were more likely, on average, to leave paid work following an increase in informal care roles than women who were casually employed. This could reflect the limited number of leave entitlements that support informal carers who have permanent employment contracts. It could also indicate that women on casual contracts have a greater ability to change jobs or their hours of work – to preserve their employment when informal care hours increase – than women on permanent contracts. Part-time work, per se, was not identified as a factor that promoted employment retention in the presence of increasing informal care roles.
68. Austen et al. (2015) explored the effects of informal care roles on employment decision-making amongst mid-life women using data from a dedicated 2011-12 survey of aged care workers. A particular focus of this study was the effect of increases in informal care roles on women in high-, as compared to low-, income households. The results showed that women from relatively high-income households were more likely to leave their jobs when their informal care roles increased. However, in the group of women from relatively low-income households the opposite relationship was observed: that is, they were less likely to leave their jobs in the presence of higher informal care roles. The difference between women from high- and low-income

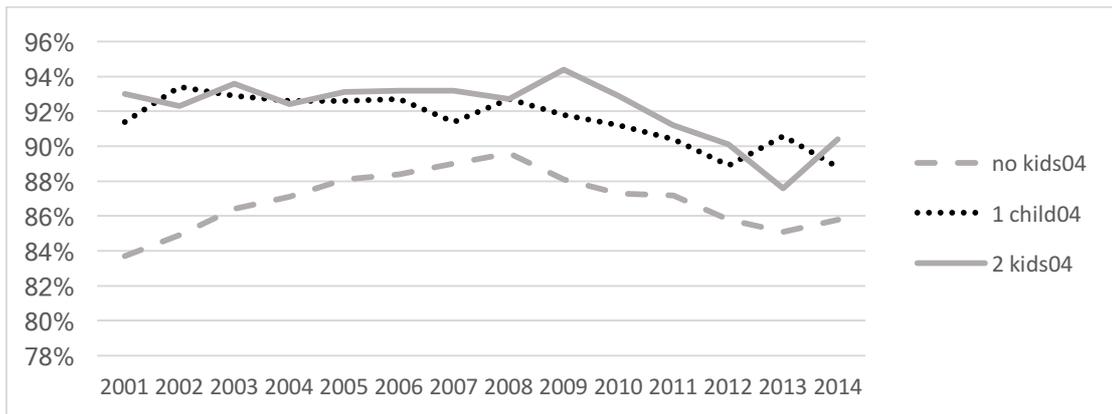
households could indicate the financial burdens that can be associated with high care needs (through, for example, high medical bills). These financial burdens can increase the importance of continuing in paid work, especially when the financial resources of a household are limited. The findings also help to explain why the overall measured employment impacts of informal care roles might be slight. That is, informal care roles increase paid work for some women and reduce it for others. The findings further highlight the importance of policies and programs that enable individuals to sustain their individual paid work roles and respond to the care needs of their family.

PART 3 The Employment and Occupational Impacts of Parenthood on Men

(Question 2)

69. The employment and occupational impacts of parenthood are less severe for men than women. This is apparent, first, in basic data on the LFPR and paid work hours of fathers:
- (a) The LFPRs of fathers of young children is relatively high, at 93.6%, and their rate of part-time work is low, at only 8.7%. Amongst fathers of older children (aged 6-14), 92.4% are participating in paid work and, of those who are employed, only 8.1% work part-time (ABS 2016).
 - (b) Census data also show that fathers' employment does not tend to vary with the age of their children, and full-time work remains the dominant work pattern for fathers. Between 1991 and 2011, the employment rate of fathers increased from 86% to 90%.
 - (c) HILDA data for 2014 show that the employment rate of men with a child under the age of 5 is relatively high, at 88.8% for men with one child in this age group and 90.4% for men with two children in this age group (Figure 17).
 - (d) Amongst fathers of young children who are employed, the rate of part-time work is relatively low, at 7.5%.
 - (e) HILDA data from 2001 through to 2014 show a slight fall in the employment rate of fathers. The employment rate of men with a single child under the age of five fell from 91.4% in 2001, to 88.8% in 2014 (Figure 17).

Figure 17: Male Employment Rates by the Number of Children Under the Age of 5, HILDA Data, 2001-2014



Source: Author's analysis of HILDA data for waves 1 through 15.

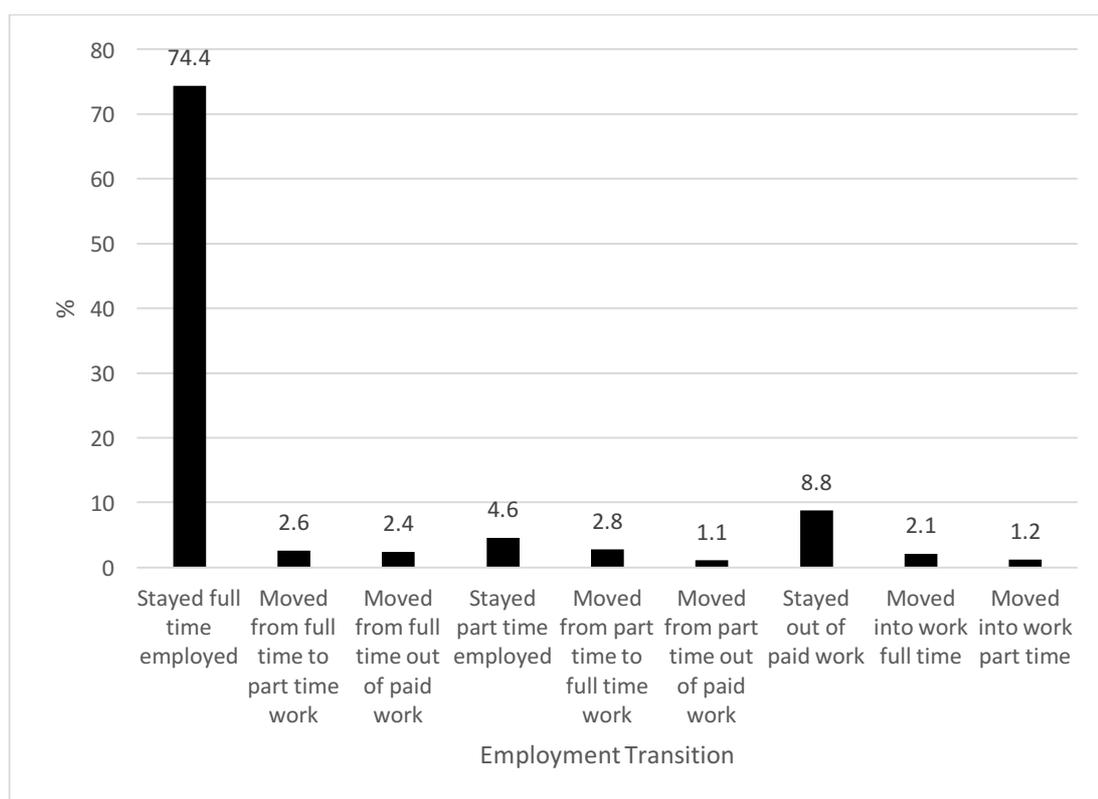
70. Because fatherhood is not, on average, associated with a reduction in the involvement of men in paid work, there have been few detailed investigations of the employment impacts of fatherhood. Venn and Wakefield included fathers in their analysis of 2001-2005 HILDA data on employment transitions. Their analysis revealed that becoming a father increased the probability that an Australian man will move from part-time to full-time employment, but had no significant effect on the likelihood that a man will move from full-time to part-time employment. Men with young children under 13 years of age were found to be significantly more likely to move from part-time to full-time employment than men without resident children.

71. Venn and Wakefield's analysis of the correlates and consequences of transitioning from full- to part-time work found that fathers who made such a transition often changed employer. This could suggest that men have limited ability to alter their work hours within the context of their current job. Other data suggest that the transition from full-time to part-time work is an involuntary change for many men, with Venn and Wakefield also finding that men who moved from full-time to part-time employment became, on average, less satisfied with their hours, whilst men who move from part-time to full-time employment became, on average, more satisfied with their hours.

3.1 Additional analysis of the employment transitions of Australian men

72. To update and extend the information base on the employment transitions of Australian men, the following paragraphs summarise the results of the author's analysis of HILDA data on men's employment transitions for the period 2001 through to 2015.
73. Reflecting the above-mentioned patterns in men's LFPRs and work hours, 74.4% of the year-on-year employment transitions of men are associated with their retention in full-time work. As shown in the following figure, a very small proportion of men's employment transitions are associated with retention in part-time work (4.6%), remaining out of paid work (8.8%), moving from full-time to part-time work (2.8%), or moving into part-time work (1.2%).

Figure 18: Men's Employment Transitions in HILDA, 2001-2015, per cent of all transitions

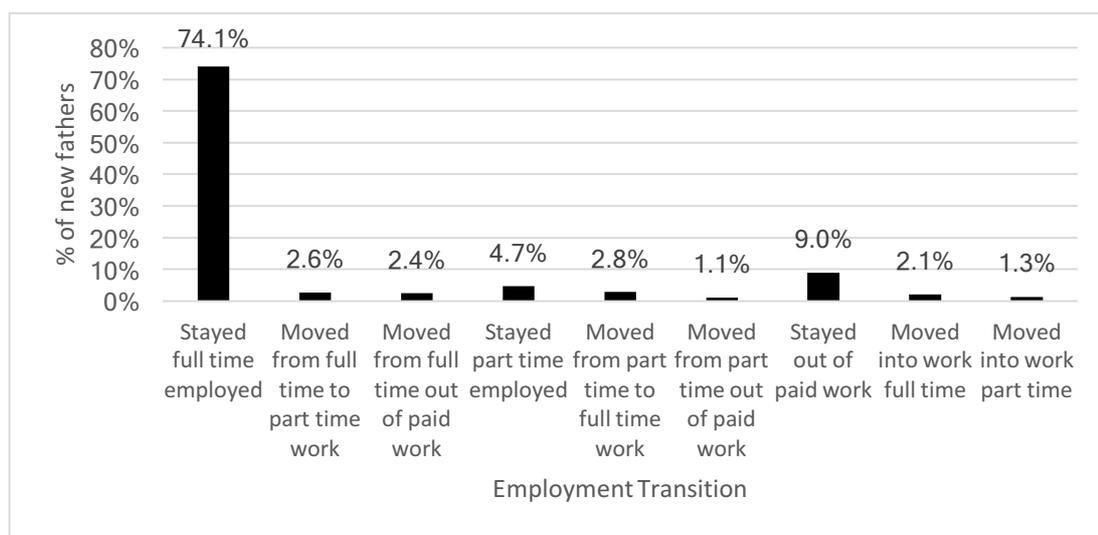


Source: Author's analysis of HILDA data for waves 1 through 15. Total n=53,706.

3.1.1 The effects of fatherhood on men’s employment transitions

74. Fatherhood has, if anything, a positive effect on men’s retention in full-time work. HILDA data for 2001-2015 show that the proportion of men who continue in full-time work across consecutive years remains high, at 74.1%, in the presence of a new child⁹ in their household (Figure 19).

Figure 19: Employment Transitions by Fathers of Newborns in HILDA, 2001-2015, per cent of all transitions

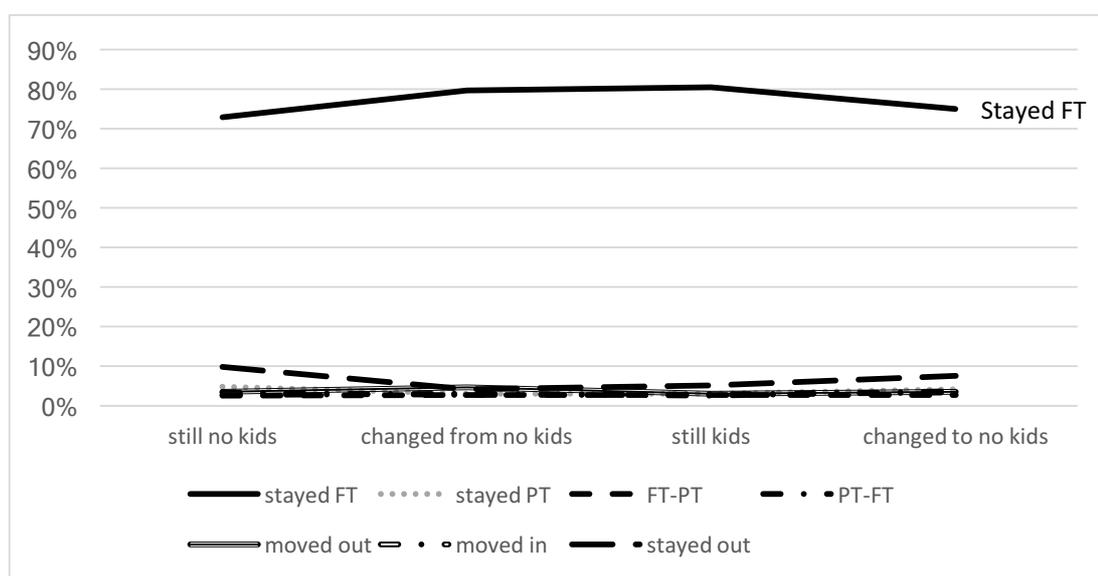


Source: Author’s analysis of HILDA data for waves 1 through 15. Total n=2549.

⁹ This is measured (imperfectly) by an increase in the number of children aged under five a person has.

75. The *relative stability* of fathers' employment transitions, and the strong persistence of full-time work is further highlighted by the data in Figure 20. The share of employment transitions accounted for by continuation in full-time work increases from 72.9% in household situations where no young children are present, to 79.7% in situations with a newborn child. Furthermore, continuation in full-time work remains high for fathers of young children in other household situations.

Figure 20: Men's Employment Transitions Across Household Situations Associated with Parenthood in HILDA, 2001-2015, per cent of all transitions

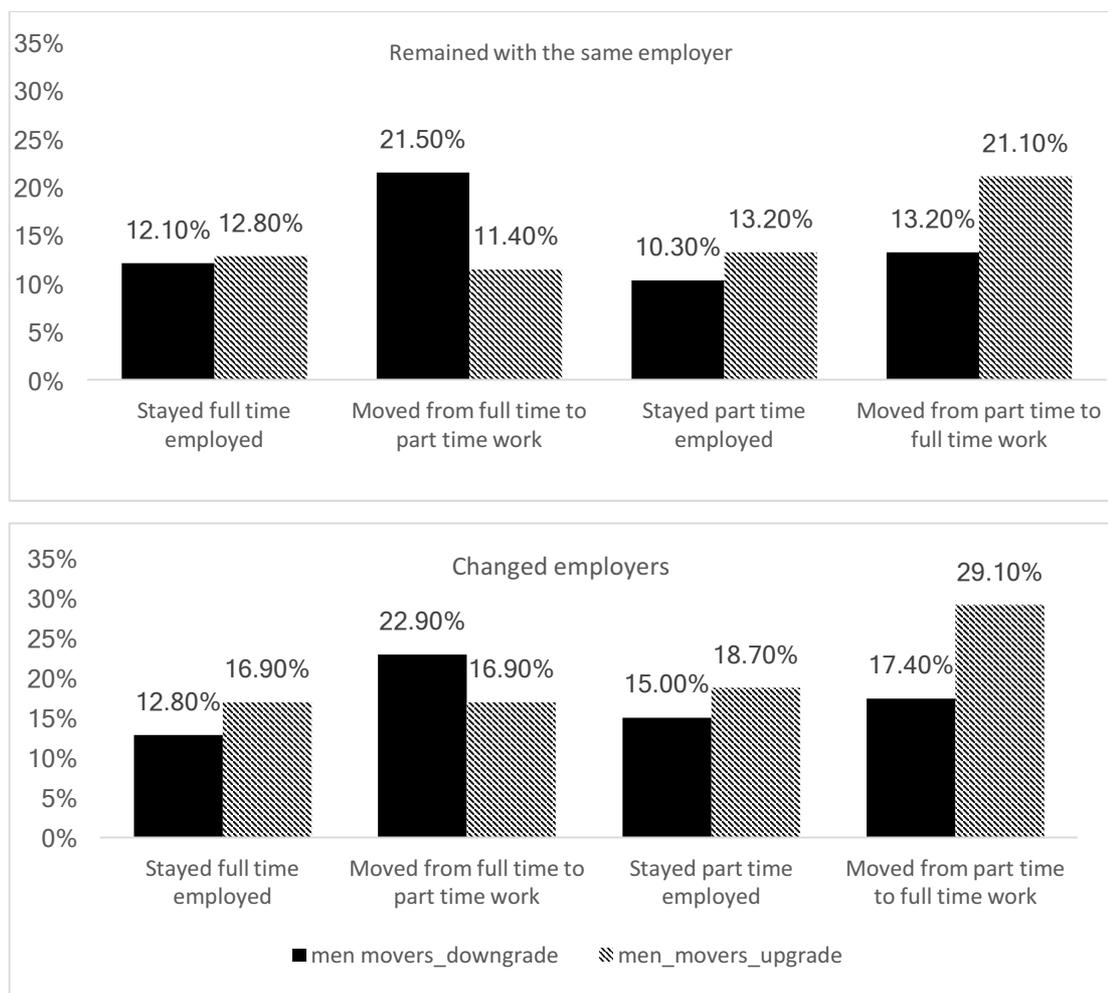


Source: Author's analysis of HILDA data for waves 1 through 15.

3.1.2 Occupational downgrading amongst Australian men: HILDA data 2001-2015

76. The data in the figures below reveal the extent of occupational downgrading or upgrading experienced by men in different employment transition groups (remaining in full-time work; transitioning from full-time to part-time work; remaining in part-time work; and transitioning from part-time to full-time work).

Figure 21: Male Occupational Transitions, Full and Part-Time Employment, HILDA 2001-15



Source: Author's analysis of HILDA data for waves 1 through 15. Total n (stayers)=38,158; total n (movers)=7056.

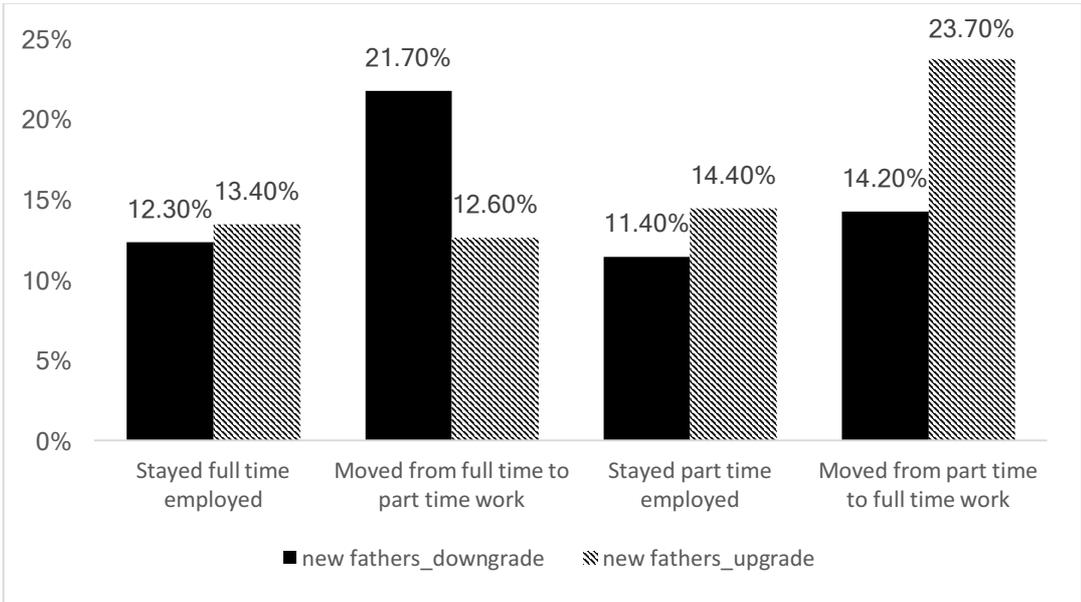
77. It is important to keep in mind that the occupational transitions of the men are dominated by the “stayed full-time employed” category. However, the data in Figure 21 show that the prevalence of occupational downgrade is relatively high (at 21.5%)

for the relatively small number of men who move from full-time to part-time work but stay with the same employer, and higher again (at 22.9%) for men who change employer as part of a shift from full-time to part-time work. Occupational upgrading is more common for men who move from part-time to full-time work, and highest for men who change employer as part of this change.

3.1.3 Parenthood and occupational change for Australian men

- 78. To focus on the effects of parenthood on occupational tenure, the data in Figure 22 show the occupational transitions of fathers of newborn children. Again, it is important to keep in mind that the occupational transitions of the men represented in this data are dominated by the “stayed full-time employed” category, which comprise 91.0% of all transitions.
- 79. The data in this figure reveal that occupational downgrades are slightly more common for the small number of fathers of newborns who move into part-time work. Occupational upgrading is more prevalent amongst the new fathers who move from part-time to full-time work, although the number of such transitions is extremely small (a total of 62 over the entire study period).

Figure 22: Occupational Transitions, Full and Part-Time Employment Amongst Fathers of Newborns

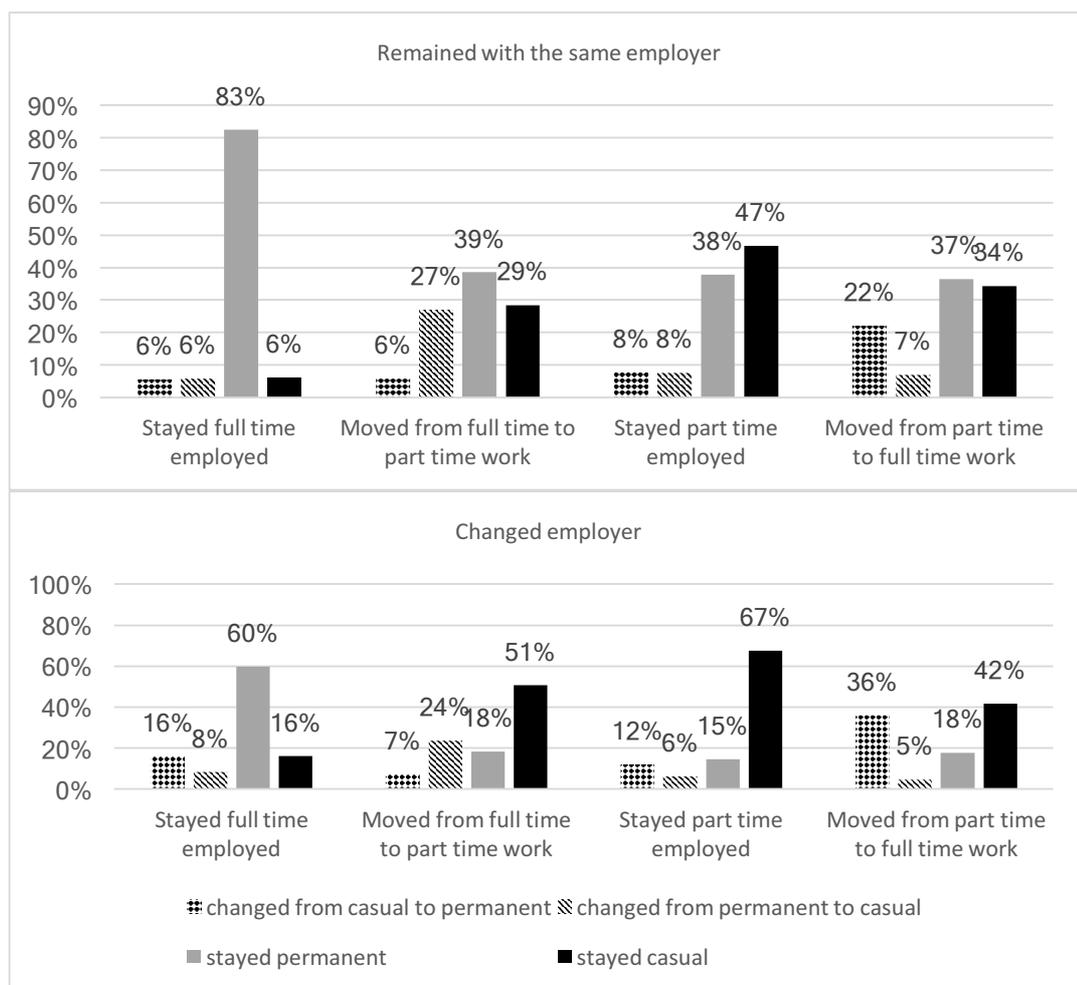


Source: Author’s analysis of HILDA data for waves 1 through 15. Total n=2247.

3.1.4 Changes in contract type by Australian men: HILDA data 2001-2015

80. The data in the following charts show the proportion of men’s employment transitions that featured a change from a permanent contract to a casual or fixed-term contract in each of the four employment transition groups outlined above.
81. As was the case for women, when men make a transition from full-time to part-time work it is relatively likely that they will shift from a permanent to casual contract. Close to 30% of the men who moved from full-time to part-time work and remained with the same employer reported a change in their contract type from permanent to casual.

Figure 23: Contract Type Changes, Full and Part-Time Employment by Men, HILDA Data, 2001-2015

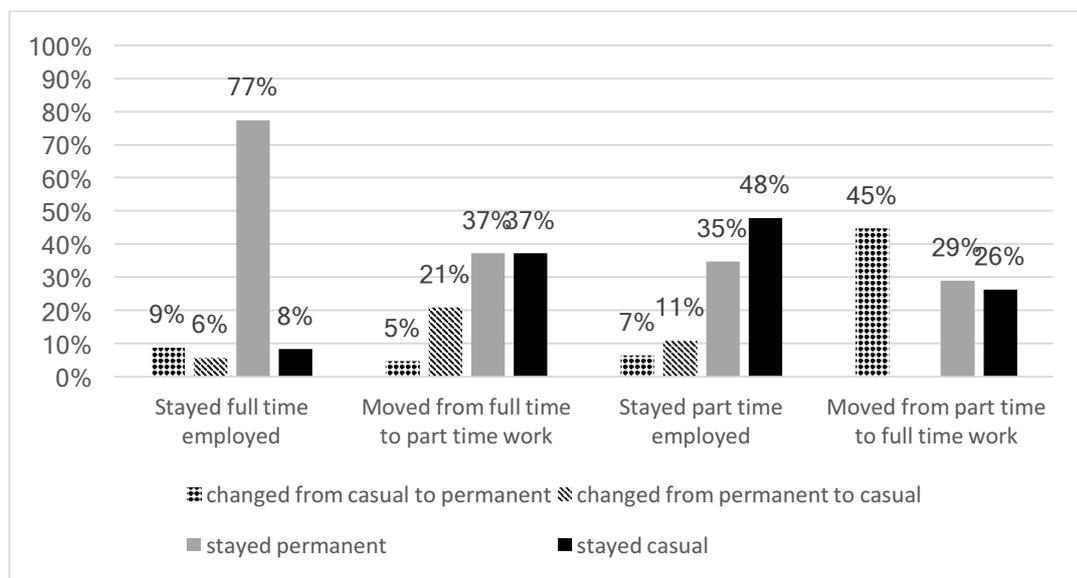


Source: Author’s analysis of HILDA data for waves 1 through 15. Total n (stayers)=28,849; total n (movers)=5,872.

3.1.5 Parenthood and contract type change for Australian men

82. Change in employment contract from permanent to casual is also a relatively frequent occurrence in the group of new fathers who shift from full-time to part-time work. While the numbers in this employment transition group are very small (total of 43), the data in Figure 24 demonstrate that 21% of the new fathers that moved from full-time to part-time work shifted from a permanent to a casual contract. In the dominant employment transition group, where men remain in full-time work, only 6% of new fathers changed from a permanent to a casual contract.

Figure 24: Contract Type Changes, Full and Part-Time Employment by Fathers of Newborn Children, HILDA Data 2001-2015

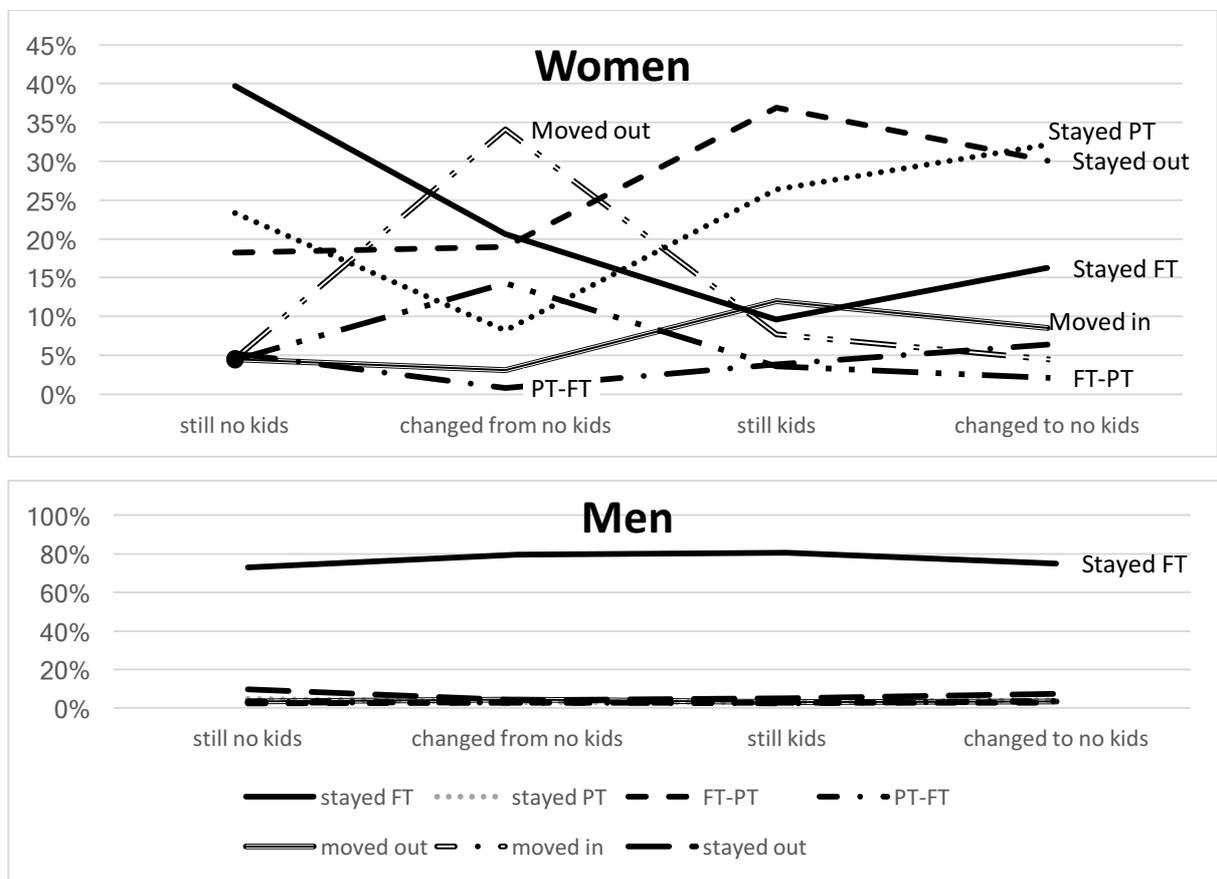


Source: Author's analysis of HILDA data for waves 1 through 15. Total n =1,790.

PART 4 Gender Differences in the Impact of Parenthood and Informal Care Roles
(Question 3)

83. The above discussion has highlighted the stark contrast in the impact of parenthood on the employment and occupations of men and women. The data in Figures 12 and 20 (reproduced below as Figure 25) best summarise these gender differences. The stability of men’s engagement in full-time work in the wake of parenthood is clearly evident in this data; as is the disruptive effect that parenthood has on women’s involvement in paid work. For women, parenthood is commonly associated with a movement out of paid work, or into part-time work. In contrast, men tend to remain in full-time work (or increase their attachment to full-time work) when they become fathers. As a result, women are more exposed to the risk of occupational downgrading and increased job insecurity following parenthood than men.

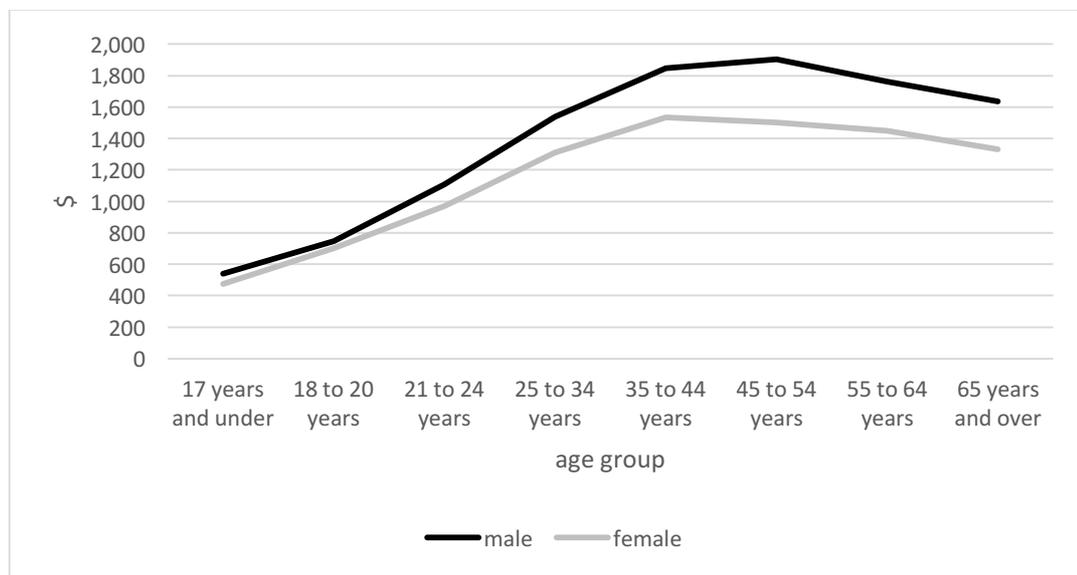
Figure 25: Employment Transitions Across Household Situations Associated with Parenthood in HILDA, 2001-2015, per cent of all transitions, by Gender



4.1 The effects of parenthood and other care roles on pay and career outcomes

84. The gender differences in the impact of parenthood on labour force participation, work hours, occupation retention and employment security, and the large share of informal care roles that women undertake, contribute to large gender gaps in long-term wage and career outcomes.
85. The differences in long-term wage and career outcomes are apparent, first, in the age-earnings profiles of Australian men and women (Figure 26). Age-earnings profiles show the average earnings of men and women in each age group. The shape of the profiles reveals that, on average, individuals' earnings increase with age (approximately through to age 50), most likely reflecting how, with age, individuals' skills and experience increase. In labour economics, this relationship between age and earnings is commonly referred to as the 'return to experience'. However, the data in Figure 26 also show that women's 'returns to experience' are lower than men's – contributing to a gender pay gap of 18.2% and a 31% gender gap in weekly earnings (Part 1).

Figure 26: Average Weekly Total Cash Earnings by Age Group and Sex, Full-time Employees, May 2014



Source: ABS (2015). *Employee Earnings and Hours, Australia, May 2014*, Table 2.

86. A further general feature of age-earnings profiles is that the returns to experience are largest, on average, for individuals with post-school qualifications (see Creedy et al. 2000-1 for Australian evidence). If experience in the workplace is complementary to skills achieved through education, individuals with higher levels of education will achieve the greatest returns to experience.
87. Parenting and other care roles affect age-earning profiles by disrupting work experience and job tenure and by inhibiting parents' and carers' ability to maintain a job that adequately matches their qualifications.
88. An extensive amount of international literature has examined the relationship between parenthood and pay for men and women. This has established a negative effect of parenthood on the wage and career outcomes of women (e.g. Arulampalam, 2001; see Fok et al., 2015; Waldfogel 1998; and Buddelmeyer et al., 2010 for earlier Australian evidence), with the phenomenon of a pay gap between parents and others now being commonly referred to as the "family pay penalty". The extant literature shows that the lower wage outcomes of women with children is *not only* due to them having less overall work experience than other women. Rather, the family pay penalty also derives from the effect of parenthood on the job and/or occupation continuity of women.
89. An important recent Australian study of this issue is Broadway and Wilkins' (2015) investigation of the incidence of low-paid work for the Fair Work Commission. Using data from the 2004 to 2013 waves of the HILDA survey, Broadway and Wilkins found that the incidence of low-paid work was generally higher (at 21.2%) amongst female employees than male workers (16.4%). However, the gender gap in the incidence of low-paid work was only found to exist amongst older workers. That is, older women were found to experience a relatively high rate of low-paid work.
90. Broadway and Wilkins linked the relatively low pay of older women to the effects of parenthood, which they described as "...a constraint that tends to affect women's movements out of employment, but not men's". The study identified that parenthood, by causing periods of absence from the workforce, reduced the average

employment tenure of women, which undermined their average earnings capacity in the longer term. Broadway and Wilkins (2015) also linked parenthood to relatively low job and occupation continuity amongst mothers; and these latter factors were also found to contribute to the relatively low wage outcomes of Australian women.

4.2 The effects of parenthood and other care roles on lifetime earnings and superannuation

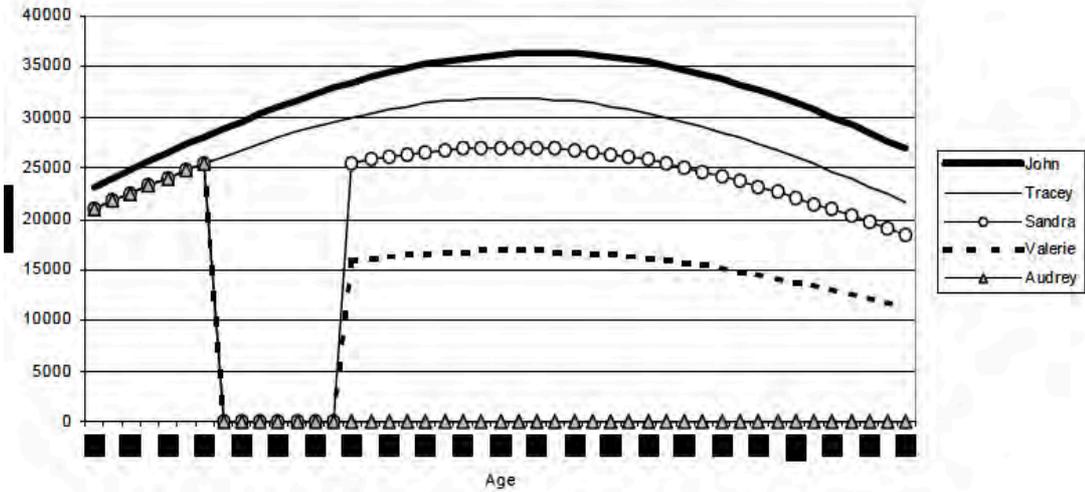
91. Age-earnings profiles are also a useful 'device' to structure a discussion of the possible impacts of parenthood and other care roles on lifetime earnings and superannuation. Lifetime earnings comprise the sum of an individual's earnings over the life course and can be represented by the total area under the age-earnings profile. Superannuation is proportional to lifetime earnings for most individuals.
92. Factors such as education that shift an age-earnings profile 'upwards' will boost lifetime earnings and superannuation, *ceteris paribus*. However, factors such as ill-health, which may reduce the length of time spent in paid work, will diminish lifetime earnings, *ceteris paribus*. Due to the effects of compound interest, the largest negative effect on superannuation will be associated with career interruptions relatively early in a person's working life.
93. This approach suggests that parenthood and other care roles will have a negative effect on both lifetime earnings and superannuation to the extent that they reduce the pay of the individuals at any age and/or limit the total time spent in paid work (either through periods of labour market absence and/or reduced paid work hours). If these negative effects are experienced by women more than men, parenthood and other care roles will contribute to a gender gap in lifetime earnings and superannuation.
94. Due to the absence of longitudinal data that spans the period of people's working lives, there are no direct measures of the lifetime earnings of Australian men and women. To respond to this problem, researchers typically rely on cross-sectional data on age-earnings profiles to simulate outcomes. In an early study, Preston and Austen

(2001) used data from the 1996 ABS Income Distribution Survey to construct age-earnings profiles for men and women in the following 'cameo' situations:

- **John and Tracey:** They both enter the workforce at the age of 20 in 2000 and *work continuously, on a full-time basis*, until they retire at the age of 65 (in 2045). John and Tracey both have average levels of education.
- **Sandra:** She has the same level of education and age of entry to the labour market as Tracey. However, her workforce history differs in that she *withdraws from the workforce* at the age of 27 to have her first child and remains out of the workforce until she is 34 (and her second child is 5 years old). Sandra *returns to work on a full-time basis* and does not retire until she is 65.
- **Valerie:** To simplify the comparisons across the individuals, Valerie also has the same level of education and age of entry to the labour market as Tracey. Her distinguishing characteristic is that, although she also spends the years from when she is 27 to when she is 34 *out of the workforce*, she *returns to work on a part-time basis* (working continuously on this basis until 65).
- **Audrey:** She also has the same general characteristics of the other women. However, after leaving the workforce at the age of 27, *Audrey does not return to paid work*.

95. The age-earnings profiles for each cameo are shown in the following figure:

Hypothetical Age Earning Profiles For Different Labour Market Groups



96. These data show that the gender pay gap at age 20, combined with the effect of differential returns to experience, contributed to a predicted 13% gap in gross lifetime earnings between John and Tracey. Parenthood further decreased the lifetime earnings of the other women. Sandra (who takes five years out from full-time work) was predicted to achieve lifetime earnings 26% lower than Tracey's. Valerie (who takes five years out and returns to part-time work) was predicted to achieve lifetime earnings 49% lower than Tracey's.
97. Reflecting the proportional relationship between lifetime earnings and superannuation, this study identified that parenthood would have similar effects on women's superannuation. Each of the cameos that were associated with women's patterns of paid work also recorded relatively low projected superannuation balances (Tracey's balance was 88% of John's; Sandra's 62%; Valerie's 45%; and Audrey's only 19%).
98. A similar micro-simulation approach has been used in more recent studies of the gender gap in superannuation. Jefferson and Preston (2005) used the approach to measure the gross lifetime income and minimum compulsory superannuation accumulations of Australians born in 1950 and 1960. In one of their 'scenarios', women worked on a part-time basis for an extended period. This translated into a significant employment experience gap between men and women of 37.3%,

“an estimated lifetime earnings gap of around 45 percent and an annual private pension gap of around 50 percent” (Jefferson and Preston 2005: 93).

99. Actuaries Rice Warner (2010) also used cameos to compare the superannuation savings of Australian men and women. One of their cameos related to a woman who left work for five years, at age 27, before returning to *full-time* work. This study did not include differential returns for experience but still found a lower level of saving of approximately 26% for this cameo, as compared to a woman without a career break.
100. Alternative methods and data produce a similar pattern of findings. For example, Feng et al., (2015) used administrative data from Mercer Australia¹⁰ to examine gender differences in the pattern of superannuation accumulation in three age cohorts: individuals born in 1956-1958, 1966-1968 and 1976-1978. This study provides direct insights into how gender differences in labour market absence and/or reduced hours of work (linked in many cases to parenthood) contribute to the gender gap in superannuation.
101. The Feng et al. study used three proxies to measure the effect of parenthood on superannuation savings:
 - Reduction in the annual “employer contribution rate”, to reflect reductions in reduced working hours;¹¹
 - Reduction in the frequency of contributions, to reflect absences or change in type of employment, such as to casual work;
 - Years with zero contributions, to reflect annual absences.

¹⁰ In 2012, the Mercer Super Trust apparently had around 260 participating employers and A\$15 billion in assets under management (Feng et al., 2015: 5). The data therefore provides insights to the experiences of a broad cross-section of employers and workers.

¹¹ The employer contribution rate measures the employer’s total contribution divided by the number of contributions.

102. The study found significant gender gaps:

- Women recorded higher attrition rates from their superannuation fund than men in each cohort, reflecting their relatively high rate of departure from paid work;
- A relatively high proportion of women experienced a reduction in the annual “employer contribution rate” over the survey period, reflecting reductions in earnings that are associated with, for example, reduced working hours;¹²
- A relatively high proportion of women missed whole year contributions to their superannuation funds, reflecting, most likely, periods of maternity leave; and
- Reflecting the influence of women’s lower earnings, the super accumulations of women who remained in the fund over the study period were lower than their male counterparts in all but one of the cohorts.

103. These findings lead the authors to conclude that the impact of parenthood on women’s superannuation savings remains large and concerning:

“... career breaks and part-time working remain the strategy of choice for coping with the care of babies and young children – and that the mother is the person who takes this on. This means that, in early working life, the flow of contributions into superannuation savings slows or stops temporarily. This has two major consequences. First, as widely acknowledged, a return to full-time work in the mid-40s certainly stabilises the inter-relationship between male and female contribution rates, but the price in terms of promotion and associated workplace opportunities has already been paid and female balances are much lower. ... Second, the super balances for older women take a knock due to less regular contribution flow – and the compound interest accruing to lower balances in mid-working life exacerbates the gap between male and female super savings which expands over the final years before retirement. The penalty motherhood apparently exerts on women’s income security in old age has long been – and remains - peculiarly marked.”

¹² The employer contribution rate measures the employer’s total contribution divided by the number of contributions.

4.3 The effects of parenthood and other care roles on wealth and household savings

104. The effects of parenthood also extend to categories of wealth other than superannuation, including savings.
105. Austen et al. (2014) used data from the HILDA wealth modules of 2006 to examine the sources of differences in the wealth portfolios of single Australian men and women (sex-disaggregated data on the wealth of individuals in couple households are not available). The study found a gender wealth gap favouring men across the wealth distribution and, whilst many of the sources of this gap could not be identified, the lower earnings and smaller length of time in paid work of women were contributory factors, as was the greater prevalence of children in households with a single female (rather than male) 'head'. The latter finding indicated a wealth penalty for parenthood that is experienced by a larger proportion of women than men.
106. A study by Apps et al. (2007) used data from the 2003-2004 ABS Survey of Income and Housing to examine both the effects of parenthood on the division of paid and unpaid work in Australian households, and the consequences of parenthood for household savings. The study's approach involved, first, the construction of profiles of the paid work hours of men and women in couple households across the life course. These profiles showed a dramatic fall, on average, in women's paid work hours after the birth of their first child, with women's hours falling to around one third of male labour supply in households with a newborn child. In subsequent lifecycle stages, when children and adults are older, women's paid work hours were shown to increase. However, on average, they did not reach much above 50 per cent of men's hours, even in households where the children have left home. Apps et al. also used ABS time use data to map the increase in domestic work that occurred amongst women in these households following the birth of their first child.
107. To study the effect of these changes in the paid work hours of women on household savings, Apps et al. focused their attention on two main types of households with children: those where the female partner continues to work full-time when her first child is born, and those where she does not work at all. The analysis showed, first, that

differences in women's labour supply between the households tended to persist over the life course. That is, if a mother dropped out of paid work when her first child was born, she tended not to be participating in the labour market later in life. The authors attribute this persistence to the effects of an initial labour market absence on the woman's work experience and therefore her wage opportunities later in the life course. Apps et al. also found that the level of household savings in each of the household type strongly tracked female labour supply. That is, the households where the mother remained in paid work achieved, on average, a higher level of household savings than the other household type, "indicating a much higher propensity to save from her net earnings" (Apps et al., 2007: 27).

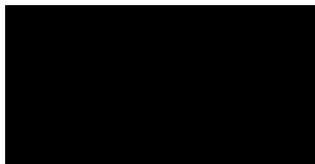
108. These findings highlight the broader impacts on household savings that stem from the negative effects of parenthood on women's workforce participation. Motherhood penalties hit women's retirement savings but also undermine household savings, with likely individual and macroeconomic effects.

PART 5: Summary and Conclusions

109. The material presented in this report shows that the impact of parenthood on female employees is extensive. Parenthood disrupts the involvement of women in paid work, causing many women to leave paid work and others to move into part-time work. When women move into part-time work (that is, into a job with fewer than 35 hours paid hours each week), a relatively large proportion lose the job security associated with a permanent contract. A significant number of women who move from full-time to part-time work also experience occupational downgrading.
110. The disruptive effects of parenthood on women's employment and occupations contribute to a motherhood pay penalty and, ultimately, lower superannuation and other forms of wealth. A large proportion of women who leave paid work following childbirth do not return to paid work, at least not in the short term, and many women transition to part-time work. These breaks in women's employment and job tenure negatively impact their ability to benefit from work experience and education, suggesting that women's skills are being underutilised. As a result of parenthood's negative employment and occupational impacts, it is also associated with women's lower lifetime earnings and superannuation. This has important (and negative) impacts on women's economic security and independence, and harms household savings.
111. Women also take on the large majority of informal care roles associated with disabled, ill and aged/frail family members. The effect of these roles on women's labour force participation is less certain, with some studies finding a negative impact and others not. This is potentially because, for women in low-income households, the need to maintain a paid work role increases when informal care needs rise; whilst other women drop out of paid work when informal care needs increase. Studies that find a negative impact show that women's engagement with paid work does not rebound when their informal care roles diminish. This suggests that informal care roles can undermine women's ongoing employment and income-earning opportunities.

112. In contrast, parenthood tends to strengthen men's attachment to full-time work. LFPRs are higher for fathers than other men, and the large majority of fathers work full-time. Following the birth of a child, the chance that a man will leave full-time work, or move into part-time work decreases.
113. However, occupational downgrading and loss of job security is a relatively common experience for the small number of men who move from full-time to part-time work. This could indicate that men find it particularly difficult to achieve family friendly hours within their current employment contracts. These barriers, if they exist, could shift the burden of care onto men's partners; reinforcing the gendered division of paid and unpaid work.
114. Men's strong attachment to full-time, and continuous, paid work has a positive effect on their lifetime earnings, superannuation savings and accumulation of other wealth, regardless of whether they are fathers or not.
115. The large differences in the impact of being a parent on the employment, earnings and retirement incomes of Australian men and women show that women pay a heavy price for the care roles they take on in their families and community. The differences are an important aspect of gender inequality in the Australian community. They also have macroeconomic significance, given that they are associated with an underutilisation of women's skills and contribute to low household savings.
116. I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance that I regard as relevant have, to my knowledge, been withheld from the Commission.

Siobhan Austen

Signed: 

Dated: May 5, 2017

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EXPERT EVIDENCE PRACTICE NOTES (GPN-EXPT)

General Practice Note

1. INTRODUCTION

- 1.1 This practice note, including the *Harmonised Expert Witness Code of Conduct* (“**Code**”) (see **Annexure A**) and the *Concurrent Expert Evidence Guidelines* (“**Concurrent Evidence Guidelines**”) (see **Annexure B**), applies to any proceeding involving the use of expert evidence and must be read together with:
- (a) the Central Practice Note (CPN-1), which sets out the fundamental principles concerning the National Court Framework (“**NCF**”) of the Federal Court and key principles of case management procedure;
 - (b) the Federal Court of Australia Act 1976 (Cth) (“**Federal Court Act**”);
 - (c) the *Evidence Act 1995* (Cth) (“**Evidence Act**”), including Part 3.3 of the Evidence Act;
 - (d) Part 23 of the *Federal Court Rules 2011* (Cth) (“**Federal Court Rules**”); and
 - (e) where applicable, the Survey Evidence Practice Note (GPN-SURV).
- 1.2 This practice note takes effect from the date it is issued and, to the extent practicable, applies to proceedings whether filed before, or after, the date of issuing.

2. APPROACH TO EXPERT EVIDENCE

- 2.1 An expert witness may be retained to give opinion evidence in the proceeding, or, in certain circumstances, to express an opinion that may be relied upon in alternative dispute resolution procedures such as mediation or a conference of experts. In some circumstances an expert may be appointed as an independent adviser to the Court.
- 2.2 The purpose of the use of expert evidence in proceedings, often in relation to complex subject matter, is for the Court to receive the benefit of the objective and impartial assessment of an issue from a witness with specialised knowledge (based on training, study or experience - see generally s 79 of the *Evidence Act*).
- 2.3 However, the use or admissibility of expert evidence remains subject to the overriding requirements that:
- (a) to be admissible in a proceeding, any such evidence must be relevant (s 56 of the *Evidence Act*); and
 - (b) even if relevant, any such evidence, may be refused to be admitted by the Court if its probative value is outweighed by other considerations such as the evidence

being unfairly prejudicial, misleading or will result in an undue waste of time (s 135 of the Evidence Act).

- 2.4 An expert witness' opinion evidence may have little or no value unless the assumptions adopted by the expert (ie. the facts or grounds relied upon) and his or her reasoning are expressly stated in any written report or oral evidence given.
- 2.5 The Court will ensure that, in the interests of justice, parties are given a reasonable opportunity to adduce and test relevant expert opinion evidence. However, the Court expects parties and any legal representatives acting on their behalf, when dealing with expert witnesses and expert evidence, to at all times comply with their duties associated with the overarching purpose in the Federal Court Act (see ss 37M and 37N).

3. INTERACTION WITH EXPERT WITNESSES

- 3.1 Parties and their legal representatives should never view an expert witness retained (or partly retained) by them as that party's advocate or "hired gun". Equally, they should never attempt to pressure or influence an expert into conforming his or her views with the party's interests.
- 3.2 A party or legal representative should be cautious not to have inappropriate communications when retaining or instructing an independent expert, or assisting an independent expert in the preparation of his or her evidence. However, it is important to note that there is no principle of law or practice and there is nothing in this practice note that obliges a party to embark on the costly task of engaging a "consulting expert" in order to avoid "contamination" of the expert who will give evidence. Indeed the Court would generally discourage such costly duplication.
- 3.3 Any witness retained by a party for the purpose of preparing a report or giving evidence in a proceeding as to an opinion held by the witness that is wholly or substantially based in the specialised knowledge of the witness¹ should, at the earliest opportunity, be provided with:
 - (a) a copy of this practice note, including the Code (see Annexure A); and
 - (b) all relevant information (whether helpful or harmful to that party's case) so as to enable the expert to prepare a report of a truly independent nature.
- 3.4 Any questions or assumptions provided to an expert should be provided in an unbiased manner and in such a way that the expert is not confined to addressing selective, irrelevant or immaterial issues.

¹ Such a witness includes a "Court expert" as defined in r 23.01 of the Federal Court Rules. For the definition of "expert", "expert evidence" and "expert report" see the Dictionary, in Schedule 1 of the Federal Court Rules.

4. ROLE AND DUTIES OF THE EXPERT WITNESS

- 4.1 The role of the expert witness is to provide relevant and impartial evidence in his or her area of expertise. An expert should never mislead the Court or become an advocate for the cause of the party that has retained the expert.
- 4.2 It should be emphasised that there is nothing inherently wrong with experts disagreeing or failing to reach the same conclusion. The Court will, with the assistance of the evidence of the experts, reach its own conclusion.
- 4.3 However, experts should willingly be prepared to change their opinion or make concessions when it is necessary or appropriate to do so, even if doing so would be contrary to any previously held or expressed view of that expert.

Harmonised Expert Witness Code of Conduct

- 4.4 Every expert witness giving evidence in this Court must read the *Harmonised Expert Witness Code of Conduct* (attached in Annexure A) and agree to be bound by it.
- 4.5 The Code is not intended to address all aspects of an expert witness' duties, but is intended to facilitate the admission of opinion evidence, and to assist experts to understand in general terms what the Court expects of them. Additionally, it is expected that compliance with the Code will assist individual expert witnesses to avoid criticism (rightly or wrongly) that they lack objectivity or are partisan.

5. CONTENTS OF AN EXPERT'S REPORT AND RELATED MATERIAL

- 5.1 The contents of an expert's report must conform with the requirements set out in the Code (including clauses 3 to 5 of the Code).
- 5.2 In addition, the contents of such a report must also comply with r 23.13 of the *Federal Court Rules*. Given that the requirements of that rule significantly overlap with the requirements in the Code, an expert, unless otherwise directed by the Court, will be taken to have complied with the requirements of r 23.13 if that expert has complied with the requirements in the Code and has complied with the additional following requirements. The expert shall:
 - (a) acknowledge in the report that:
 - (i) the expert has read and complied with this practice note and agrees to be bound by it; and
 - (ii) the expert's opinions are based wholly or substantially on specialised knowledge arising from the expert's training, study or experience;
 - (b) identify in the report the questions that the expert was asked to address;
 - (c) sign the report and attach or exhibit to it copies of:
 - (i) documents that record any instructions given to the expert; and

- (ii) documents and other materials that the expert has been instructed to consider.

5.3 Where an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, these must be provided to the other parties at the same time as the expert's report.

6. CASE MANAGEMENT CONSIDERATIONS

6.1 Parties intending to rely on expert evidence at trial are expected to consider between them and inform the Court at the earliest opportunity of their views on the following:

- (a) whether a party should adduce evidence from more than one expert in any single discipline;
- (b) whether a common expert is appropriate for all or any part of the evidence;
- (c) the nature and extent of expert reports, including any in reply;
- (d) the identity of each expert witness that a party intends to call, their area(s) of expertise and availability during the proposed hearing;
- (e) the issues that it is proposed each expert will address;
- (f) the arrangements for a conference of experts to prepare a joint-report (see Part 7 of this practice note);
- (g) whether the evidence is to be given concurrently and, if so, how (see Part 8 of this practice note); and
- (h) whether any of the evidence in chief can be given orally.

6.2 It will often be desirable, before any expert is retained, for the parties to attempt to agree on the question or questions proposed to be the subject of expert evidence as well as the relevant facts and assumptions. The Court may make orders to that effect where it considers it appropriate to do so.

7. CONFERENCE OF EXPERTS AND JOINT-REPORT

7.1 Parties, their legal representatives and experts should be familiar with aspects of the Code relating to conferences of experts and joint-reports (see clauses 6 and 7 of the Code attached in Annexure A).

7.2 In order to facilitate the proper understanding of issues arising in expert evidence and to manage expert evidence in accordance with the overarching purpose, the Court may require experts who are to give evidence or who have produced reports to meet for the purpose of identifying and addressing the issues not agreed between them with a view to reaching agreement where this is possible ("**conference of experts**"). In an appropriate case, the Court may appoint a registrar of the Court or some other suitably qualified person ("**Conference Facilitator**") to act as a facilitator at the conference of experts.

- 7.3 It is expected that where expert evidence may be relied on in any proceeding, at the earliest opportunity, parties will discuss and then inform the Court whether a conference of experts and/or a joint-report by the experts may be desirable to assist with or simplify the giving of expert evidence in the proceeding. The parties should discuss the necessary arrangements for any conference and/or joint-report. The arrangements discussed between the parties should address:
- (a) who should prepare any joint-report;
 - (b) whether a list of issues is needed to assist the experts in the conference and, if so, whether the Court, the parties or the experts should assist in preparing such a list;
 - (c) the agenda for the conference of experts; and
 - (d) arrangements for the provision, to the parties and the Court, of any joint-report or any other report as to the outcomes of the conference (“**conference report**”).

Conference of Experts

- 7.4 The purpose of the conference of experts is for the experts to have a comprehensive discussion of issues relating to their field of expertise, with a view to identifying matters and issues in a proceeding about which the experts agree, partly agree or disagree and why. For this reason the conference is attended only by the experts and any Conference Facilitator. Unless the Court orders otherwise, the parties' lawyers will not attend the conference but will be provided with a copy of any conference report.
- 7.5 The Court may order that a conference of experts occur in a variety of circumstances, depending on the views of the judge and the parties and the needs of the case, including:
- (a) while a case is in mediation. When this occurs the Court may also order that the outcome of the conference or any document disclosing or summarising the experts' opinions be confidential to the parties while the mediation is occurring;
 - (b) before the experts have reached a final opinion on a relevant question or the facts involved in a case. When this occurs the Court may order that the parties exchange draft expert reports and that a conference report be prepared for the use of the experts in finalising their reports;
 - (c) after the experts' reports have been provided to the Court but before the hearing of the experts' evidence. When this occurs the Court may also order that a conference report be prepared (jointly or otherwise) to ensure the efficient hearing of the experts' evidence.
- 7.6 Subject to any other order or direction of the Court, the parties and their lawyers must not involve themselves in the conference of experts process. In particular, they must not seek to encourage an expert not to agree with another expert or otherwise seek to influence the outcome of the conference of experts. The experts should raise any queries they may have in relation to the process with the Conference Facilitator (if one has been appointed) or in

accordance with a protocol agreed between the lawyers prior to the conference of experts taking place (if no Conference Facilitator has been appointed).

- 7.7 Any list of issues prepared for the consideration of the experts as part of the conference of experts process should be prepared using non-tendentious language.
- 7.8 The timing and location of the conference of experts will be decided by the judge or a registrar who will take into account the location and availability of the experts and the Court's case management timetable. The conference may take place at the Court and will usually be conducted in-person. However, if not considered a hindrance to the process, the conference may also be conducted with the assistance of visual or audio technology (such as via the internet, video link and/or by telephone).
- 7.9 Experts should prepare for a conference of experts by ensuring that they are familiar with all of the material upon which they base their opinions. Where expert reports in draft or final form have been exchanged prior to the conference, experts should attend the conference familiar with the reports of the other experts. Prior to the conference, experts should also consider where they believe the differences of opinion lie between them and what processes and discussions may assist to identify and refine those areas of difference.

Joint-report

- 7.10 At the conclusion of the conference of experts, unless the Court considers it unnecessary to do so, it is expected that the experts will have narrowed the issues in respect of which they agree, partly agree or disagree in a joint-report. The joint-report should be clear, plain and concise and should summarise the views of the experts on the identified issues, including a succinct explanation for any differences of opinion, and otherwise be structured in the manner requested by the judge or registrar.
- 7.11 In some cases (and most particularly in some native title cases), depending on the nature, volume and complexity of the expert evidence a judge may direct a registrar to draft part, or all, of a conference report. If so, the registrar will usually provide the draft conference report to the relevant experts and seek their confirmation that the conference report accurately reflects the opinions of the experts expressed at the conference. Once that confirmation has been received the registrar will finalise the conference report and provide it to the intended recipient(s).

8. CONCURRENT EXPERT EVIDENCE

- 8.1 The Court may determine that it is appropriate, depending on the nature of the expert evidence and the proceeding generally, for experts to give some or all of their evidence concurrently at the final (or other) hearing.
- 8.2 Parties should familiarise themselves with the *Concurrent Expert Evidence Guidelines* (attached in Annexure B). The Concurrent Evidence Guidelines are not intended to be exhaustive but indicate the circumstances when the Court might consider it appropriate for

concurrent expert evidence to take place, outline how that process may be undertaken, and assist experts to understand in general terms what the Court expects of them.

- 8.3 If an order is made for concurrent expert evidence to be given at a hearing, any expert to give such evidence should be provided with the Concurrent Evidence Guidelines well in advance of the hearing and should be familiar with those guidelines before giving evidence.

9. FURTHER PRACTICE INFORMATION AND RESOURCES

- 9.1 Further information regarding Expert Evidence and Expert Witnesses is available on the Court's website.
- 9.2 Further information to assist litigants, including a range of helpful guides, is also available on the Court's website. This information may be particularly helpful for litigants who are representing themselves.

J L B ALLSOP
Chief Justice
25 October 2016

HARMONISED EXPERT WITNESS CODE OF CONDUCT²

APPLICATION OF CODE

1. This Code of Conduct applies to any expert witness engaged or appointed:
 - (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings; or
 - (b) to give opinion evidence in proceedings or proposed proceedings.

GENERAL DUTIES TO THE COURT

2. An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the Court impartially on matters relevant to the area of expertise of the witness.

CONTENT OF REPORT

3. Every report prepared by an expert witness for use in Court shall clearly state the opinion or opinions of the expert and shall state, specify or provide:
 - (a) the name and address of the expert;
 - (b) an acknowledgment that the expert has read this code and agrees to be bound by it;
 - (c) the qualifications of the expert to prepare the report;
 - (d) the assumptions and material facts on which each opinion expressed in the report is based [a letter of instructions may be annexed];
 - (e) the reasons for and any literature or other materials utilised in support of such opinion;
 - (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise;
 - (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications;
 - (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person;
 - (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which the expert regards as relevant have, to the

² Approved by the Council of Chief Justices' Rules Harmonisation Committee

- knowledge of the expert, been withheld from the Court;
- (j) any qualifications on an opinion expressed in the report without which the report is or may be incomplete or inaccurate;
 - (k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason; and
 - (l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

SUPPLEMENTARY REPORT FOLLOWING CHANGE OF OPINION

- 4. Where an expert witness has provided to a party (or that party's legal representative) a report for use in Court, and the expert thereafter changes his or her opinion on a material matter, the expert shall forthwith provide to the party (or that party's legal representative) a supplementary report which shall state, specify or provide the information referred to in paragraphs (a), (d), (e), (g), (h), (i), (j), (k) and (l) of clause 3 of this code and, if applicable, paragraph (f) of that clause.
- 5. In any subsequent report (whether prepared in accordance with clause 4 or not) the expert may refer to material contained in the earlier report without repeating it.

DUTY TO COMPLY WITH THE COURT'S DIRECTIONS

- 6. If directed to do so by the Court, an expert witness shall:
 - (a) confer with any other expert witness;
 - (b) provide the Court with a joint-report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing; and
 - (c) abide in a timely way by any direction of the Court.

CONFERENCE OF EXPERTS

- 7. Each expert witness shall:
 - (a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the Court and in relation to each report thereafter provided, and shall not act on any instruction or request to withhold or avoid agreement; and
 - (b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.

ANNEXURE B

CONCURRENT EXPERT EVIDENCE GUIDELINES

APPLICATION OF THE COURT'S GUIDELINES

1. The Court's Concurrent Expert Evidence Guidelines ("**Concurrent Evidence Guidelines**") are intended to inform parties, practitioners and experts of the Court's general approach to concurrent expert evidence, the circumstances in which the Court might consider expert witnesses giving evidence concurrently and, if so, the procedures by which their evidence may be taken.

OBJECTIVES OF CONCURRENT EXPERT EVIDENCE TECHNIQUE

2. The use of concurrent evidence for the giving of expert evidence at hearings as a case management technique³ will be utilised by the Court in appropriate circumstances (see r 23.15 of the *Federal Court Rules 2011* (Cth)). Not all cases will suit the process. For instance, in some patent cases, where the entire case revolves around conflicts within fields of expertise, concurrent evidence may not assist a judge. However, patent cases should not be excluded from concurrent expert evidence processes.
3. In many cases the use of concurrent expert evidence is a technique that can reduce the partisan or confrontational nature of conventional hearing processes and minimises the risk that experts become "opposing experts" rather than independent experts assisting the Court. It can elicit more precise and accurate expert evidence with greater input and assistance from the experts themselves.
4. When properly and flexibly applied, with efficiency and discipline during the hearing process, the technique may also allow the experts to more effectively focus on the critical points of disagreement between them, identify or resolve those issues more quickly, and narrow the issues in dispute. This can also allow for the key evidence to be given at the same time (rather than being spread across many days of hearing); permit the judge to assess an expert more readily, whilst allowing each party a genuine opportunity to put and test expert evidence. This can reduce the chance of the experts, lawyers and the judge misunderstanding the opinions being expressed by the experts.
5. It is essential that such a process has the full cooperation and support of all of the individuals involved, including the experts and counsel involved in the questioning process. Without that cooperation and support the process may fail in its objectives and even hinder the case management process.

³ Also known as the "hot tub" or as "expert panels".

CASE MANAGEMENT

6. Parties should expect that, the Court will give careful consideration to whether concurrent evidence is appropriate in circumstances where there is more than one expert witness having the same expertise who is to give evidence on the same or related topics. Whether experts should give evidence concurrently is a matter for the Court, and will depend on the circumstances of each individual case, including the character of the proceeding, the nature of the expert evidence, and the views of the parties.
7. Although this consideration may take place at any time, including the commencement of the hearing, if not raised earlier, parties should raise the issue of concurrent evidence at the first appropriate case management hearing, and no later than any pre-trial case management hearing, so that orders can be made in advance, if necessary. To that end, prior to the hearing at which expert evidence may be given concurrently, parties and their lawyers should confer and give general consideration as to:
 - (a) the agenda;
 - (b) the order and manner in which questions will be asked; and
 - (c) whether cross-examination will take place within the context of the concurrent evidence or after its conclusion.
8. At the same time, and before any hearing date is fixed, the identity of all experts proposed to be called and their areas of expertise is to be notified to the Court by all parties.
9. The lack of any concurrent evidence orders does not mean that the Court will not consider using concurrent evidence without prior notice to the parties, if appropriate.

CONFERENCE OF EXPERTS & JOINT-REPORT OR LIST OF ISSUES

10. The process of giving concurrent evidence at hearings may be assisted by the preparation of a joint-report or list of issues prepared as part of a conference of experts.
11. Parties should expect that, where concurrent evidence is appropriate, the Court may make orders requiring a conference of experts to take place or for documents such as a joint-report to be prepared to facilitate the concurrent expert evidence process at a hearing (see Part 7 of the Expert Evidence Practice Note).

PROCEDURE AT HEARING

12. Concurrent expert evidence may be taken at any convenient time during the hearing, although it will often occur at the conclusion of both parties' lay evidence.
13. At the hearing itself, the way in which concurrent expert evidence is taken must be applied flexibly and having regard to the characteristics of the case and the nature of the evidence to be given.
14. Without intending to be prescriptive of the procedure, parties should expect that, when evidence is given by experts in concurrent session:

- (a) the judge will explain to the experts the procedure that will be followed and that the nature of the process may be different to their previous experiences of giving expert evidence;
 - (b) the experts will be grouped and called to give evidence together in their respective fields of expertise;
 - (c) the experts will take the oath or affirmation together, as appropriate;
 - (d) the experts will sit together with convenient access to their materials for their ease of reference, either in the witness box or in some other location in the courtroom, including (if necessary) at the bar table;
 - (e) each expert may be given the opportunity to provide a summary overview of their current opinions and explain what they consider to be the principal issues of disagreement between the experts, as they see them, in their own words;
 - (f) the judge will guide the process by which evidence is given, including, where appropriate:
 - (i) using any joint-report or list of issues as a guide for all the experts to be asked questions by the judge and counsel, about each issue on an issue-by-issue basis;
 - (ii) ensuring that each expert is given an adequate opportunity to deal with each issue and the exposition given by other experts including, where considered appropriate, each expert asking questions of other experts or supplementing the evidence given by other experts;
 - (iii) inviting legal representatives to identify the topics upon which they will cross-examine;
 - (iv) ensuring that legal representatives have an adequate opportunity to ask all experts questions about each issue. Legal representatives may also seek responses or contributions from one or more experts in response to the evidence given by a different expert; and
 - (v) allowing the experts an opportunity to summarise their views at the end of the process where opinions may have been changed or clarifications are needed.
15. The fact that the experts may have been provided with a list of issues for consideration does not confine the scope of any cross-examination of any expert. The process of cross-examination remains subject to the overall control of the judge.
16. The concurrent session should allow for a sensible and orderly series of exchanges between expert and expert, and between expert and lawyer. Where appropriate, the judge may allow for more traditional cross-examination to be pursued by a legal representative on a particular issue exclusively with one expert. Where that occurs, other experts may be asked to comment on the evidence given.
17. Where any issue involves only one expert, the party wishing to ask questions about that issue should let the judge know in advance so that consideration can be given to whether

arrangements should be made for that issue to be dealt with after the completion of the concurrent session. Otherwise, as far as practicable, questions (including in the form of cross-examination) will usually be dealt with in the concurrent session.

18. Throughout the concurrent evidence process the judge will ensure that the process is fair and effective (for the parties and the experts), balanced (including not permitting one expert to overwhelm or overshadow any other expert), and does not become a protracted or inefficient process.